

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

: \_\_\_\_\_ :

THE UNITED STATES OF AMERICA, :  
Plaintiff, :

vs. : Case No: 12-CV-2039 GAG

THE COMMONWEALTH OF PUERTO RICO, :  
et al, :  
Defendant. :

: \_\_\_\_\_ :

TRANSCRIPT OF STATUS CONFERENCE  
HELD BEFORE THE HONORABLE CHIEF JUDGE GUSTAVO A. GELPÍ  
JOSÉ V. TOLEDO U.S. COURTHOUSE, OLD SAN JUAN, PUERTO RICO  
THURSDAY, SEPTEMBER 9, 2021, BEGINNING AT 9:07 A.M.

: \_\_\_\_\_ :

A P P E A R A N C E S:

U.S. DEPARTMENT OF JUSTICE-Civil Right Division  
BY LUIS E. SAUCEDO, ESQUIRE and  
JORGE M. CASTILLO, ESQUIRE  
950 Pennsylvania Avenue, NW  
Washington, DC 20530  
For the Plaintiff

CANCIO, NADAL & RIVERA, L.L.C.  
BY GABRIEL A. PEÑAGARÍCANO, ESQUIRE and  
RAFAEL BARRETO-SOLÁ, ESQUIRE  
403 Muñoz Rivera Avenue  
San Juan, Puerto Rico 00918  
For the Defendant

ALSO PRESENT:

Sonia C. Cardona, Courtroom Deputy Clerk

Mayra Cardona, Spanish Interpreter

John Romero, Monitor & Monitor's Team

Dr. Alejandro Del Carmen, Special Master

Colonel Antonio López-Figueroa, Police Commissioner

1 THE COURTROOM DEPUTY: All rise.

2 (The Court enters the room.)

3 THE COURT: Please be seated and good morning  
4 to all. Today we're going to hold the second part of  
5 our status conference public hearing. And the idea of  
6 having it at this time of the year where we're already  
7 in mid-September. Last hearing we covered five areas  
8 of the agreement, today we're going to cover the other  
9 six areas. But my intention with these hearings is to  
10 have at the close of today's session a very frank and  
11 honest snapshot of where PRPB stands. And with that  
12 in mind it's going to be very feasible for PRPB not  
13 only from the monitor's report but from the  
14 self-assessment and all comments that are going to be  
15 done here where it needs to move forward in the next  
16 couple of months. So that's the idea of this hearing.  
17 To me it's important to hear from all the different  
18 areas given that with the COVID pandemic we really  
19 hadn't had these hearings.

20 I do want to note that, as ordered by the  
21 Court, the Commonwealth of Puerto Rico filed it's,  
22 let's say, self assessment of the different areas at  
23 Docket 1841 -- no, 1830. And also at 1841 it filed  
24 another document that was filed by the Puerto Rico  
25 Justice Department that has to do with domestic

1 violence. Those two documents have been filed and the  
2 United States Department of Justice filed its response  
3 to the Commonwealth's motion at Docket 1830 at Docket  
4 1837. So I've reviewed that for the record and I want  
5 to thank both parties for putting in the effort they  
6 did into these filings which are very important. And  
7 there's other documents submitted by community members  
8 and I'll make reference to them probably in the  
9 afternoon session.

10 I also want to note I want to say something  
11 very briefly. Obviously when we address the  
12 Commonwealth's memorandum at Docket 1830, but  
13 something that struck my attention which I think is  
14 very important for this case moving on forward is that  
15 in this memorandum the commissioner of police,  
16 Mr. López-Figueroa, what I find very commendable about  
17 this report is that it takes the point that the  
18 monitor is making in the last report and basically  
19 saying this is what the monitor noted. As of today  
20 this is where we stand, we're complying with this,  
21 we're looking forward to start complying with this  
22 other matter but it is a very positive memorandum  
23 because it's taken the monitor's report as a tool to  
24 move forward. So I think it shows that PRPB is taking  
25 measures to comply. And obviously today we're going

1 to see areas where compliance may be better,  
2 compliance needs to improve, but this is what is very  
3 important that the police have this attitude.

4 I also do want to thank -- well, before we  
5 start formally, and I'm going to recognize everybody  
6 from the DOJ and the parties who are here, but before  
7 that I want to take a moment to note that I'm formally  
8 announcing that Attorney Alfredo Castellanos and  
9 Retired Justice Federico Hernández-Denton, who are  
10 senior counsel, special counsel to the monitor in this  
11 case, are retiring. They've been with us for close to  
12 a decade almost, it seems like yesterday. They were  
13 planning on doing so about two years ago, but I  
14 basically twisted their arms and begged them to stay  
15 because there was a transition in the monitor's  
16 office. And the monitor John Romero was there but he  
17 was understaffed. Now the office is fully staffed, it  
18 has general counsel, and it has all the subject matter  
19 experts and support personnel.

20 So at this time I accepted their petition to  
21 step down. We will miss them, but at the same time I  
22 want to thank them for all their efforts and work  
23 throughout this case. This has been a difficult time.  
24 We've gone through the earthquakes, we've gone through  
25 the COVID, we've gone through the hurricanes, and

1 they've worked on many, many things particularly when  
2 we were short-staffed -- well, the Monitor's office  
3 was short-staffed, they helped prepare the Monitor's  
4 reports and other special reports. And also when it  
5 came to certain protocols and other matters had to be  
6 prepared and other matters it was all resolved.

7 I do note Mr. Castellanos at one point there  
8 was the issue about the elections here and PRPB wasn't  
9 allowed to advertise in compliance with the reform or  
10 announce anything and he was also able to resolve that  
11 matter dealing with the separate agencies.

12 So again their work has been extremely  
13 valuable. Justice Hernández-Denton's insight, a  
14 former Supreme Court justice for 30 years, was  
15 extremely valuable as well. So we will miss them and  
16 I applaud them and I thank them for their work here.

17 Since the Monitor's here, John Romero, before  
18 I formally introduce anything, is there anything you  
19 would add now that I've mentioned this retirement  
20 about Mr. Castellanos or Justice Hernández-Denton?

21 MONITOR ROMERO: Well, Your Honor, I would  
22 just add you're absolutely right. They've served the  
23 Monitor's office for almost eight years and two and a  
24 half years ago when I took over as monitor it was a  
25 very difficult time. We know half the team had left

1 and there was a brief transition period, and without  
2 Attorney Castellanos and Judge Denton we wouldn't have  
3 been able to make it. They were there for us and I  
4 just cannot thank them enough for being there.

5 I know at that time they were thinking about  
6 stepping down and you convinced them to stay and that  
7 was a very important decision and it helped the  
8 Monitor's office very much. I thank them for the  
9 service that they provided to the Monitor's office and  
10 to me personally. It meant quite a bit. Thank you,  
11 Your Honor.

12 THE COURT: So let me formally introduce for  
13 the record counsel from U.S. DOJ Luis Saucedo is  
14 present, as well as Jorge Castillo. I believe there  
15 are other persons, they're appearing via zoom. There  
16 are other persons from U.S. DOJ who are participating  
17 in the hearing but they're only participating in audio  
18 and so I want to note that.

19 Then for purposes of the Commonwealth  
20 Attorney Barreto and Attorney Peñagaricano are both  
21 here and then I'd like both of you to introduce who  
22 are the members of the police or the Commonwealth who  
23 are here today. So please go ahead.

24 MR. PEÑAGARICANO: Good morning, Your Honor.  
25 On behalf of the Commonwealth present this morning is

1 the governor's representative Attorney Maria del Mar  
2 Ortíz. From the Puerto Rico Police Bureau the  
3 commissioner, Colonel Antonio López-Figueroa; the  
4 associate commissioner, Juan Rodríguez-Dávila; the  
5 director of the reform office, Captain Carlos  
6 Figueroa-Ortolaza; the in-house counsel of the reform  
7 office, attorney José Vázquez-Rivera.

8 Also, from the Department of Justice of  
9 Puerto Rico my dear first cousin Attorney Susana  
10 Peñagaricano-Brown; and Attorney Laura  
11 Hernández-Gutiérrez. Also presenting on the six  
12 categories today present from the Bureau is Colonel  
13 José Ramírez-Ramos, Colonel Luis Colón-Ortíz,  
14 Commander Wilson Lebrón, Sergeant Yvette  
15 Rivera-Velázquez, Lieutenant II Georgiani  
16 Mulero-Andino, Lieutenant II Alexis Quiñones-Ortíz.

17 THE COURT: Okay, thank you.

18 MR. PEÑAGARICANO: Thank you.

19 THE COURT: And I welcome Commissioner  
20 Antonio López and also the governor's personal  
21 representative Maria del Mar Ortíz. I do want to say  
22 as to both of you it's very important that you've both  
23 been at these hearings whether live or the ones we've  
24 had previously via Zoom. Ms. Ortíz in all the other  
25 consent decree cases has been present and I think

1 that's very important. I have never seen a governor's  
2 personal representative not miss a single hearing and  
3 again it's very important and it helps things move on,  
4 so thank you very much.

5 So now from U.S. DOJ, Mr. Saucedo or  
6 Mr. Castillo, I know there's been some coordination  
7 and there are several members from the community that  
8 are here. I don't know of anybody else who has  
9 coordinated through your office or through the  
10 Monitor's office to be here, but if there's anybody  
11 you would like to introduce and then I'll give you, if  
12 you want to have an extra minute, I know both of you  
13 and particularly you, Mr. Saucedo, worked along with  
14 Justice Hernández-Denton and Attorney Castellanos so  
15 if there's anything you want to state for the record.  
16 They're not here today but they'll see the transcript  
17 at some point, so please go ahead. And then I'll have  
18 the Monitor introduce the team after that.

19 MR. SAUCEDO: Yes, sir. Good morning, Your  
20 Honor, Luis Saucedo for the United States. I do want  
21 to take a minute here to thank Attorney Castellanos  
22 and Justice Hernández-Denton for their service on this  
23 case. I know that each has made contributions to  
24 advancing the work. We especially thank Attorney  
25 Castellanos for all of his efforts on the public



1 hearing. I know he took responsibility for trying to  
2 take these proceedings out of San Juan and closer to  
3 people around the island who are affected by the  
4 reform effort.

5 And also Chief Justice Hernández-Denton who  
6 was instrumental in trying to finish the large group  
7 of policies that were being created and revised. He  
8 was very helpful in ensuring that those policies were  
9 sound and were consistent with Commonwealth Law so  
10 that was very helpful.

11 I also want to thank the public officials,  
12 the governor's personal representative, the  
13 commissioner, and other PRPB officials who are here  
14 this morning. I especially want to thank the members  
15 of the community who took the time to be here. I  
16 think it's important to keep in mind, at least it's  
17 important for us as the DOJ, to remember that this  
18 case really means something different for people who  
19 live there and it's because they're affected by the  
20 police interactions every day. And so we appreciate  
21 their efforts, we thank them for being here this  
22 morning.

23 It's important for us to continue to listen  
24 and to take their views into consideration as this  
25 case moves forward. I don't have quite the attendance

1 list of people who are there. I do see Mr. José  
2 Rodríguez from the Dominican Committee For Human  
3 Rights, Modesta Irizarry who was here with us last  
4 time. And I'm not sure who else is in the room, but I  
5 want to thank you all for being here and for being  
6 part of this case. We appreciate it.

7 THE COURT: Okay, thank you, Mr. Saucedo.

8 MR. SAUCEDO: Your Honor, as far as  
9 substance --

10 THE COURT: Oh, yes, go ahead.

11 MR. SAUCEDO: Your Honor, I just wanted to  
12 note that, you know, we'll reserve specific comments  
13 and an introduction for the afternoon session. So  
14 thank you very much for holding these proceedings and  
15 for creating a record of where we are and where we're  
16 headed.

17 THE COURT: Okay, thank you. And what I will  
18 do is during the morning, as during the last hearing,  
19 the idea is to hear -- well, I've read what PRPB has  
20 submitted so I'll be asking particular questions to  
21 the deponents and once I'm done I'm going to allow  
22 U.S. DOJ to make some follow-up questions that I may  
23 have missed, and then PRPB can also ask if there's  
24 anything they want to follow-up on that. So it's  
25 going to be the same format as last time. We're going

1 to go until about 11:30 this morning and then resume  
2 at 2:30. Why the three-hour break? because there's  
3 not too many restaurants in Old San Juan, they're  
4 slow. And again I just want everybody to have a good  
5 lunch, relax, and come back. And again this is not a  
6 contentious hearing; the idea is to try to get  
7 everything for the record so we all know where  
8 everybody stands.

9 Now, what I'd like to do is for the monitor  
10 to introduce everybody from his team. I believe  
11 everybody except Luis Hidalgo who is excused, he's  
12 taking his daughters to college and he's got two at  
13 the same time. So aside from that introduce everybody  
14 and then I'll ask somebody from your team, it doesn't  
15 have to be right now but maybe at one of the breaks,  
16 to figure out who from the community is here so we can  
17 identify everybody who is here later.

18 I have received some written statements from  
19 the community leaders, some wanted to speak today, but  
20 because the calendar is charged I don't think we're  
21 going to have time. I have the written statements.  
22 If we finish earlier perhaps I'll be able to give  
23 everybody two or three minutes but I have read those  
24 statements and they will be made part of the record as  
25 well.

1           So Mr. Romero introduce your team, please go  
2     ahead.

3           MONITOR ROMERO: Thank you, Your Honor. With  
4     me at the table is General Counsel Roberto Abesada and  
5     Deputy Chief Monitor Denise Rodríguez. The subject  
6     matter presented here today Rafael Ruiz, Al Young,  
7     Scott Craig. We also have a number of support staff  
8     and I didn't have a list of --

9           THE COURT: Merangelie Serrano is also here.

10          MONITOR ROMERO: We don't have a total list  
11     of everybody here, Your Honor, but the entire team is  
12     here. If you give me a second I can provide you the  
13     names.

14          THE COURT: I believe Rita Watkins is here.

15          MONITOR ROMERO: Rita Watkins is here as  
16     well.

17          THE COURT: Don Goslett is here. Javier  
18     González is here.

19          MONITOR ROMERO: Hipolito Castro is here.  
20     Manuel is here.

21          THE COURT: Ruben Arroyo is here, as well as  
22     Javier González. Claudia Camera is also here, support  
23     staff from the office, and Stephanie --

24          MONITOR ROMERO: I think that's the entire  
25     staff.

1           THE COURT: Okay, so with that said, let me  
2 then go directly as we say in Spanish, *directo al*  
3 *grano*. And we're going to go through the six areas in  
4 the public hearing. Let me -- I'm going to refer to  
5 Docket 1830 and that's the Commonwealth's memorandum.  
6 Let me get my notes here one second. Areas by areas.

7           So the first are I'd like to address is the  
8 use of force. So I'd like to know who the officer in  
9 charge of use of force is. And let me say, the first  
10 is going to be use of force; next is going to be equal  
11 protection and nondiscrimination; and third we're  
12 going to have policies and procedures; and then  
13 complaints and internal investigation is fourth;  
14 professionalization, fifth. I may have missed -- I  
15 believe that would cover everything. And we don't  
16 have to swear in the witnesses obviously it's not a --

17          MR. BARRETO-SOLÁ: Your Honor, if I may  
18 please the Court, I will request permission to have  
19 attorney and the director of the reform office sit  
20 with us.

21          THE COURT: Oh, he can sit there. If he's  
22 vaccinated you can all sit together. And I know  
23 everybody filled their questionnaires beforehand so  
24 thank you for that. Health comes first.

25          Okay, so let me then just have the witness

1 introduce himself and then I'll begin asking some of  
2 the questions.

3 Okay, good morning. Just for the record  
4 identify yourself and then I have a few questions for  
5 you.

6 COLONEL COLÓN-ORTÍZ: Good morning. I  
7 address you this morning. This is Office of the  
8 Commissioner, Colonel Luis Colón-Ortiz. I preside the  
9 board of the use of force in the Office of the  
10 Commissioner.

11 THE COURT: So welcome. And let me start,  
12 I've read all the materials so you don't need to read  
13 everything just answer the particular questions that I  
14 or the counsel for the parties may have.

15 So my first question is, does the Puerto Rico  
16 Police Bureau have a tracking mechanism to provide  
17 valid use of force numbers both internally and also  
18 externally? When I say externally, I refer does the  
19 general public get to know what these numbers are? If  
20 this mechanism is not in place, when will PRPB have  
21 the capacity to be able to track use of force numbers?

22 COLONEL COLÓN-ORTÍZ: Certainly the Puerto  
23 Rico Police Bureau together with the commissioner have  
24 established the tracking of numbers of use of force.  
25 And right now we have dealt with changes in the

1 documents. The one that was PPR-84 has now become  
2 PPR-102.

3 THE COURT: I also want to note for the  
4 record. I forgot, the special master is here by way  
5 of VTC and I believe his staff. Yes, they're also  
6 there with him. Mr. Petrowski and -- I can't see  
7 well, but I believe all the staff is here and he'll be  
8 addressing the Court in the afternoon as well. I  
9 believe Gary is also here from the Special Master's  
10 Office.

11 Okay, so please continue.

12 COLONEL COLÓN-ORTÍZ: As to the question that  
13 Your Honor has stated as to whether the numbers are  
14 applied to the citizens I can tell you that right now  
15 I cannot answer as to whether these numbers are  
16 reaching the citizens.

17 THE COURT: And let me also ask you, the  
18 policies have changed in order to reflect the use of  
19 force. Are these use of force -- is the data for use  
20 of force available all of it electronically once it's  
21 processed or it's still in paper form?

22 COLONEL COLÓN-ORTÍZ: Yes, the policies have  
23 changed recently with the monitor and the commission  
24 on the reform. They have approved about five or six  
25 of these manuals including the one on the use of

1 force. The virtual library has also been created.  
2 That serves as reference for the members of the police  
3 force and also the citizens can look at it on the Web  
4 page of the police.

5 THE COURT: Okay, but let me ask you, can the  
6 citizens look in the police Web page to use of force  
7 data or that's not available in the Web page?

8 COLONEL COLÓN-ORTÍZ: On the Web page of the  
9 Puerto Rico Police Bureau it is open to the citizens  
10 where there are different items where they can choose  
11 and they can see the data.

12 THE COURT: I think he said the policies.

13 COLONEL COLÓN-ORTÍZ: Correct, yes.

14 THE COURT: But can the citizenry see the  
15 data? That's what I want to know.

16 COLONEL COLÓN-ORTÍZ: Statistical data?

17 THE COURT: Yes, statistical data.

18 COLONEL COLÓN-ORTÍZ: I do not have knowledge  
19 of statistical data.

20 THE COURT: Okay, let me move on. The use of  
21 force investigations they have a timeline that they  
22 have to be completed, and referring I believe it's  
23 general order 100-113. So I want to ask you, to the  
24 best of your knowledge, are these investigations being  
25 conducted on time; if not, what steps are being taken



1 to remedy this matter?

2 COLONEL COLÓN-ORTÍZ: The 100-1 13 is the  
3 policies created by the unit on the use of force and  
4 it's known as the FIU. In the manual that was  
5 approved by the commissioner in these past days,  
6 August 31st, the manual on the use of force, it  
7 establishes the timelines when the complaint is  
8 investigated, when the supervisors, investigate it,  
9 when the regional area supervisor investigates it.  
10 And it also gives the timeline to investigate the FIU  
11 which is 45 days of investigation. And we also have  
12 the timeline for the board of the use of force to  
13 conclude the investigations on the use of force.

14 THE COURT: And there's also, and this is  
15 general order 500-502, there's a commissioner's force  
16 review board as well. I would assume that your  
17 answers as to that would be similar as well, that they  
18 have deadlines and basically they are complying with  
19 the deadlines.

20 COLONEL COLÓN-ORTÍZ: Correct. Upon assuming  
21 the presidency of the commission on the use of force  
22 of the commissioner, we reviewed the cases pending to  
23 be reviewed by the board. We noticed that due to the  
24 pandemic, although they had been documented, there  
25 were 74 cases that had not been completed. We

1       proceeded to establish dates which were June 29th and  
2       30, and July 7th, and we attended to 74 cases that  
3       were verified and corroborated. And on August 31st,  
4       according to the deadline and the workplan, 14  
5       additional cases were added for a total of 88 cases  
6       from June to the present.

7               THE COURT: Would you know the number of any  
8       still outstanding pending cases or basically  
9       everything is within the time limits at this time?

10              COLONEL COLÓN-ORTÍZ: Well, I understand that  
11       if there is any case pending it would be scheduled for  
12       September 27th according to the work plan. And this  
13       may be due to, according to the general order, some  
14       cases need to be verified by the special bureau or the  
15       special investigations bureau.

16              THE COURT: Okay. Now, another separate  
17       area. In previous monitor reports it was recommended  
18       by the monitor and agreed by PRPB to expand the  
19       training of use of force investigators as it relates  
20       to firearm discharges. There was an issue because  
21       firearms discharges were either not being reported  
22       correctly or they were missing. So my question is,  
23       has this training begun? Has the curriculum been  
24       created to train these investigators to properly  
25       address the firearms discharges?

1 COLONEL COLÓN-ORTÍZ: Well, the board of use  
2 of force is examining the critical negligent  
3 discharges. There are two different types of  
4 discharges, there's critical discharge and negligent  
5 discharge. And in both cases, in many of the cases,  
6 the board recommends to have training on each one, the  
7 critical and negligent.

8 THE COURT: All right. Now moving to another  
9 area. PRPB implemented a pilot project in Arecibo  
10 area last year, it was a crisis intervention team.  
11 What are PRPB's plans to expand the crisis  
12 intervention team to all other areas? I was looking  
13 at the document submitted by PRPB, I believe I read it  
14 somewhere. I can't find it right now, but I believe  
15 that your answer will be that this private program has  
16 been expanded or is in the process of being expanded  
17 to the other areas.

18 Let me interrupt again. I did find it, it's  
19 at page 1 of Docket 1830. I knew I had read it and  
20 highlighted it. In this document as of march of this  
21 year the plan was to extend the program to Fajardo,  
22 Mayagüez, and Ponce, and the idea was to have in the  
23 13 police areas within a two-year period. So I want  
24 to ask you particularly about Fajardo, Mayagüez, and  
25 Ponce. In March there were plans to expand the

1 program; is the program in place already there and if  
2 it's not when will it begin?

3 COLONEL COLÓN-ORTÍZ: I understand that it  
4 has not been established in Mayagüez, Fajardo, and  
5 Ponce because the Monitor Romero, I understand,  
6 suggested to Commissioner Antonio López not to do it  
7 staggeredly rather to do it globally.

8 THE COURT: And my last question is the  
9 following. It's a little long. Like many other  
10 departments across the United States over the last  
11 several years, PRPB has responded to a number of  
12 demonstrations or protests throughout this  
13 jurisdiction. And I can take judicial notice and we  
14 all know what these protests have been.

15 Police departments throughout the United  
16 States have instituted policies requiring personnel to  
17 prepare self-assessment reports after the completion  
18 or when these events, these protests or  
19 manifestations, end as much can be learned by  
20 preparing an in-depth report. And by preparing those  
21 reports it allows the police departments to complete a  
22 frank assessment as to what occurred and in some cases  
23 what can be improved upon. In addition, the Bureau's  
24 general order 600-625, which is managing and crowd  
25 control, specifically requires PRPB to conduct a

1 self-assessment exercise of the operations during each  
2 these incidents or proceedings or  
3 protests/manifestations. So my question is, has PRPB  
4 prepared these reports as outlined in policy 600-625?

5 COLONEL COLÓN-ORTÍZ: Operationally when a  
6 workplan is established due to a situation that may be  
7 planned or spontaneous, we have the responsibility,  
8 the commanders, the officers in charge, to call a  
9 meeting after the event with all persons in charge in  
10 the different areas of the manifestation and to carry  
11 out a critique to analyze those matters that you have  
12 mentioned according to general order 600-625, and a  
13 minute is recorded as to it.

14 THE COURT: Let me ask you also, you do that  
15 internally but the monitor periodically also issues  
16 his reports and sometimes special reports. I know as  
17 to summer of 2019 there was a pretty lengthy report  
18 filed. How does PRPB take into account the Monitor's  
19 report along with the self-assessment moving forward?

20 COLONEL COLÓN-ORTÍZ: According to the report  
21 of the CMRs depending on the different numbers we are  
22 taking into account and making adjustments in the  
23 practice and in policies.

24 THE COURT: Let me just give an example. I  
25 know if you look at the report for 2019, it took a

1 while to prepare but it's there, the police had  
2 been -- after the summer of 2019 had been informed of  
3 what areas of concern the monitor had, what possible  
4 shortcomings occurred. And then there was another  
5 protest, smaller-sized, but it was in December end of  
6 2019. And if you look and compare the monitor's  
7 findings in both by the second protests under the new  
8 governor a lot of those areas of concerns were  
9 incidents that occurred basically outside of the  
10 perimeter where the protests were taking place had  
11 improved. So I assume that's an example of how the  
12 police takes the monitor's input and also its own  
13 self-assessment, am I correct?

14 COLONEL COLÓN-ORTÍZ: Yes, sir.

15 THE COURT: Okay. So I have no further  
16 questions for you.

17 Mr. Saucedo, you're on the screen. And now I  
18 can see everyone on the screen. I had a very small  
19 screen but now I can see everybody from the special  
20 master's office. So Mr. Saucedo, if you want to ask  
21 any particular questions to this officer, please go  
22 ahead.

23 MR. SAUCEDO: Yes, thank you, Your Honor. I  
24 want to thank Colonel Colón for being here this  
25 morning. The agreement requires that PRPB track uses

1 of force and that it create a system because PRPB has  
2 agreed to investigate every single use of force  
3 whether a civilian complains about it or not PRPB has  
4 an obligation to ensure that that use of force was  
5 within the law and within PRPB policy. I remember  
6 speaking with Colonel Colón a few years ago about the  
7 need to have a reliable data system -- yes? I will  
8 pause.

9 The police has a responsibility to  
10 investigate all uses of force whether or not there's a  
11 civilian complaint about the incident.

12 COLONEL COLÓN-ORTÍZ: Yes, sir.

13 MR. SAUCEDO: So we had a conversation awhile  
14 back about the need for a tracking system. We know  
15 that the IT bureau is working on developing a tracking  
16 system. My question is, who at PRPB IT -- my question  
17 is, at the last status conference we talked about the  
18 need for PRPB leadership to ensure that these systems  
19 are developed and used by its personnel. My question  
20 is, who at PRPB is responsible at the executive level  
21 for the development of the use of force tracking  
22 system?

23 COLONEL COLÓN-ORTÍZ: Yes, at the executive  
24 level all members are responsible -- the commissioner  
25 and the supervisor on professionalism, and all

1 officers are responsible. And we've already developed  
2 a card for complaints, No. 126.2, where it has two  
3 items that specify whether use of force was used, what  
4 level of use of force was used, and whether there was  
5 an arrest. And so ever since then we have been able  
6 to follow-up on the tracing of the use of force and we  
7 have also established an electronic module that allows  
8 us to keep track of the use of force digitally.

9 MR. SAUCEDO: Your Honor, there's great  
10 interest in all uses of force but especially firearm  
11 discharges by police officers. The police bureau had  
12 a practice of announcing to the public when those  
13 incidents took place. Has that practice been  
14 suspended and if it has will it resume so that the  
15 public is informed when officers use force, deadly  
16 force, and under what circumstances?

17 COLONEL COLÓN-ORTÍZ: To answer Mr. Saucedo's  
18 question, certainly both types of discharges are  
19 investigated, critical discharge and the critical  
20 negligent discharge. The critical discharge is the  
21 discharge that occurs when there is a shooting out on  
22 the street and the critical negligent discharge is  
23 when there is an accidental discharge by a police  
24 officer.

25 MR. SAUCEDO: But my question was about



1 informing the public when those critical firearm  
2 discharges occurred.

3 THE COURT: And let me add to the question.  
4 Is currently the public being informed or at this time  
5 it is not being informed?

6 COLONEL COLÓN-ORTÍZ: I do not know that.

7 THE COURT: So that is something I would ask  
8 you to follow-up on that and let counsel Saucedo and  
9 also the monitor know. And it's almost Friday so let  
10 him know at some time by the close of next week.

11 Okay, Mr. Saucedo, anything else?

12 MR. SAUCEDO: Yes, just one last question,  
13 and that was one that Your Honor asked and I think  
14 Colonel Colón answered a different question. And that  
15 is, that it is important that force investigators have  
16 appropriate training.

17 I'll pause there. It pertains to those  
18 officers who are charged with investigating the use of  
19 force. Have those investigators been trained to  
20 conduct force investigations?

21 COLONEL COLÓN-ORTÍZ: Yes. The Puerto Rico  
22 Police is up-to-date on the yearly trainings and they  
23 are done either virtually or in person and all  
24 employees and all members of the force have been  
25 trained. However, we did make an approach with

1 Commissioner Francisco Rodríguez who is the deputy  
2 commissioner on training and education of the police,  
3 to prepare a training properly for the board on the  
4 use of force on the use of force and on the FIU and to  
5 train all the members of the board and yours truly on  
6 the investigation on the use of force. And the  
7 committee has already been established that will  
8 prepare the plan and the curriculum for the training  
9 that will be given to these fellow officers.

10 MR. SAUCEDO: Thank you, Your Honor. I don't  
11 have any other questions.

12 THE COURT: Then let me ask Mr. Peñagaricano  
13 or Mr. Barreto, any follow-up comment or question let  
14 me know.

15 MR. PEÑAGARICANO: Thank you, Your Honor.  
16 Just to mention for the Court to know that on the  
17 very, very good question from the Court about the  
18 availability of use of force statistics to the public.  
19 That topic will be specifically addressed in the  
20 policy and procedure presentation that's coming.

21 THE COURT: Okay, so thank you. So you're  
22 excused, thank you very much. The next police  
23 representative is the one who is going to be  
24 addressing equal protection and nondiscrimination.  
25 Before that occurs, I forgot to allow Dr. Del Carmen,

1     who is the special master, to introduce himself and  
2     members of his team. So if you want to take one or  
3     two minutes to do so I already noted that Gary  
4     Loeffert and Tom Petrowski were there with you. And I  
5     apologize because now I have the screen in front of me  
6     and I can see; this morning I had just tiny dots on  
7     the screen so I couldn't see. And I know also you  
8     worked closely with Attorney Castellanos and Justice  
9     Hernández-Denton so if you want to make a comment  
10    after that. Obviously in the afternoon you'll have an  
11    opportunity to address other matters. Please go ahead  
12    and introduce yourself.

13           SPECIAL MASTER DEL CARMEN: Yes, Your Honor,  
14    good morning. This morning we have from the Office of  
15    the Special Master, Gary Loeffert and Tom Petrowski  
16    both assistant special masters. And to your note, I  
17    also our office wishes to thank Mr. Castellanos and  
18    Judge Denton for their contributions over the past  
19    years. I had an opportunity to work with both of them  
20    both as a monitor and in their current role as a  
21    special master. Their contributions were invaluable,  
22    we wish them well. And thank you, Your Honor.

23           THE COURT: Okay, thank you, and we'll hear  
24    from you this afternoon.

25           MR. BARRETO-SOLÁ: Your Honor, if I may

1 please the Court. I have here Captain Figueroa who  
2 wanted to address the Court just to clarify a few  
3 points that were addressed now just to keep the record  
4 straight.

5 THE COURT: Yes. And he's sitting there at  
6 counsel's table so you don't have to stand up, you can  
7 speak into the microphone. And I note just for the  
8 record he's the director of the reform unit.

9 CAPTAIN FIGUEROA-ORTOLAZA: Good morning,  
10 Honorable Judge Gustavo Gelpí. I want to clarify some  
11 questions that you asked as to whether the police is  
12 disclosing statistics on use of force. As soon as the  
13 commissioner assigned this he was very specific and  
14 clear that he wanted to establish a dashboard to be  
15 able to have on realtime the statistics on use of  
16 force which will be generated through the complaints  
17 card that was created. The monitor, as recently as  
18 last Tuesday, was able to observe the dashboard and  
19 submit recommendations to it.

20 As to the other part of the reporting of  
21 manually reporting subjects on incidents of use of  
22 force, through the module that was prepared for  
23 investigations, the division module, it will allow us  
24 to inform the public the annual trends on incidents of  
25 use of force at all levels.

1           And with regards to the report that the  
2           monitor made as to the manifestations of December of  
3           2019, we did take the recommendations of the monitor  
4           seriously. And so much so that we let know the team  
5           of the monitor that as soon as he submitted that  
6           report a broad review was going to be made as to  
7           general order 600-625 which we expect to submit to the  
8           parties for their consideration on Part 229 toward the  
9           end of this month.

10           And with regards to the investigations of use  
11           of force, as well as the actions -- the situations of  
12           use of force in which the committee has already been  
13           established at the academy, because we were waiting to  
14           establish the curriculum for the evaluations, that  
15           committee is composed by the members of the reform of  
16           psychology and the members of the use of force unit,  
17           as well as staff from the academy and investigators of  
18           incidents of the use of force.

19           And I understand that the monitor is  
20           concerned about the trainings for the members of the  
21           board, as well as for the FIU but we're moving towards  
22           it being a training that addresses all recommendations  
23           and all lessons learned throughout the process in  
24           order to carry out revisions of investigations of use  
25           of force as the agreement includes. And that would be

1 all and thank you for the chance to talk.

2 THE COURT: Thank you. And what I'm going to  
3 do is, Mr. Romero, particularly as to the dashboard,  
4 since you had the opportunity to review that, when  
5 it's your turn this afternoon to speak you may want to  
6 address that. I think it would be very helpful.  
7 These are things that are recent as of one or two  
8 days.

9 MONITOR ROMERO: Yes, Your Honor, and those  
10 things are in my notes for the afternoon.

11 THE COURT: Great. So we're going to move  
12 now to the area of equal protection and  
13 nondiscrimination.

14 MR. PEÑAGARÍCANO: Your Honor, if I may.

15 THE COURT: Yes.

16 MR. PEÑAGARÍCANO: Much respect to the Court,  
17 we've been told if there's any opportunity for the  
18 Court to hear now the presentation of the justice  
19 department as they have I think some pressing matters  
20 at the department that need their attention.

21 THE COURT: Okay, so then let's hear from  
22 your cousin.

23 MR. PEÑAGARÍCANO: Thank you very much, Your  
24 Honor.

25 THE COURT: And she's been working there for

1 many years before you even ended up representing the  
2 PRPB so...

3 And the interpreter can take a break. I know  
4 Ms. Peñagaricano has argued in this court many times  
5 before the Court of Appeals so she doesn't need an  
6 interpreter.

7 MR. PEÑAGARICANO: Thank you, Your Honor.

8 THE COURT: So then I do note  
9 Ms. Peñagaricano that you filed -- and this is at  
10 Docket 1841, it is the attachment. It's a statement  
11 about domestic violence from the Puerto Rico  
12 Department of Justice, and that is something that I  
13 had asked last time. What I would do is, since you  
14 know how to abide by time limits, if you can in a  
15 synopsis summarize the most important -- this is in  
16 the record already, but if you want to highlight the  
17 most important matters that you have addressed in this  
18 document without reading it, please go ahead. I may  
19 have one or two other questions and so may  
20 Mr. Saucedo. Please go ahead.

21 MS. PEÑAGARICANO-BROWN: Good morning.  
22 Susana Peñagaricano for the record. I'll be brief.  
23 On behalf of the Secretary of Justice, Honorable  
24 Domingo Emanuelli Hernández, I thank the Court for  
25 extending an invitation for today's public hearing.

1 As the Court is aware, the secretary of justice  
2 supports the police reform and is readily joining  
3 forces with the PRPB through collaboration protocols  
4 and open channels of communication in order to address  
5 pressing and sensitive matters such as hate crime,  
6 gender violence, and domestic violence.

7 Today I have with me Prosecutor Laura  
8 Hernández-Gutiérrez, she's the director of the  
9 coordinating division of special units in domestic  
10 violence, sexual offenses, child abuse, and drug  
11 courts. And she will be able to brief the Court, as  
12 the Court sees fit, as to the collaborative efforts  
13 and other matters that the Department of Justice is  
14 taken upon themselves to address the before mentioned  
15 violent criminal activity. So I'll allow Prosecutor  
16 Laura Hernández to address the Court on that issue.

17 THE COURT: Okay. So good morning,  
18 Ms. Hernández, and welcome. Let me say that I'm very  
19 familiar with the domestic violence units in the  
20 Puerto Rico Department of Justice. And I also --  
21 Ms. Peñagaricano mentioned the drug courts and when I  
22 was there, it's almost a quarter century ago, that's  
23 when the specialized prosecutor units were first  
24 organized. And actually Governor Wanda Vázquez was  
25 then in charge of the projects; she was Prosecutor II



1 or III at the time. I happened to be solicitor  
2 general at the time and I also worked closely with the  
3 drug courts, so I'm glad to see that these very  
4 important programs and sexual offense programs and  
5 hate crimes are still being addressed as they should  
6 in the Puerto Rico DOJ.

7 So I'll allow you if you want to -- don't  
8 read anything, but if you want to give us an overview  
9 of what you think are the most salient points that can  
10 be helpful for everybody here. And for the record  
11 please go ahead five, six, seven minutes, go ahead.  
12 And I may have some questions.

13 MS. HERNÁNDEZ-GUTIÉRREZ: (In English.) Good  
14 morning, Your Honor. First of all, I'm very honored  
15 to be here this morning. I would like to express  
16 myself in Spanish since it is my main language and  
17 it's easier for me to detail everything so I will  
18 start in Spanish.

19 (In Spanish.) My name is Laura  
20 Hernández-Gutierrez. I've been a prosecutor for the  
21 Department of Justice of Puerto Rico for 21 years. I  
22 was assigned to direct the coordination of specialized  
23 unit in February of this year. I had previously been  
24 working in a specialized unit in Carolina and San  
25 Juan, and my first ten years were in the general

1 prosecutor's office in Carolina and Fajardo.

2 When I started working my priority was to  
3 identify how we could improve the statistics to expand  
4 the specialized unit throughout all of the judicial  
5 regions in Puerto Rico because at the time there were  
6 only four specialized units when the public policy of  
7 the Department of Justice established that there  
8 should be 13 throughout Puerto Rico. And knowing how  
9 important it is to investigate cases of sexual abuse  
10 and child abuse in Puerto Rico, I decided that it was  
11 a priority to extend this program throughout the whole  
12 island.

13 And also to expand on the specialized unit I  
14 wanted to establish a project that would keep track of  
15 the incidents of hate crimes in Puerto Rico. And so  
16 we can proudly say that due to the fact of having true  
17 and accurate statistics the financial oversight board  
18 assigned us a budget in order to be able to create  
19 these new specialized units and we are currently  
20 hiring and recruiting. And so our main objective is  
21 by October to establish the program so that the  
22 Financial Oversight and Management Board can assign a  
23 budget to us so that we can create the specialized  
24 unit and expand it perpetually.

25 But it is indispensable for this project that

1 the Puerto Rico Police reinforce its divisions of  
2 child abuse and sexual abuse crimes throughout Puerto  
3 Rico. In my experience as a prosecutor, I found that  
4 many times these sexual crimes divisions did not have  
5 the resources to adequately address and investigate  
6 these situations, these events. And so only the  
7 investigations that were hot that had just recently  
8 occurred were being investigated. And so the  
9 long-term investigations would just stay as cold  
10 cases.

11 And so I wanted to take advantage today to  
12 say that not only I want to express that we're working  
13 very excitedly on improving this but we also need the  
14 Puerto Rico Police to reinforce its investigations in  
15 the sexual crime division and the child abuse division  
16 because we need to address the populations that are so  
17 affected, the most vulnerable populations.

18 THE COURT: When you refer to cold cases, I  
19 assume that when you have the cases that you mentioned  
20 are processed those are usually the ones where the  
21 victim immediately calls the police, they're  
22 photographed, whatever evidence is taken on the spot,  
23 the statement is taken right away, the complaint is  
24 filed and the person is arrested and those usually --  
25 you know, it moves on swifter.

1 I think what you mean by a cold case is  
2 somebody can be the victim of domestic violence and  
3 may three weeks later she's gone to the hospital  
4 privately, maybe it got reported, but then finally she  
5 or he goes and files a complaint, shows some  
6 photographs or maybe doesn't have photographs, but  
7 since that took place the personnel that are available  
8 are attending ongoing and not cold cases. So that's  
9 why sometimes these older cases by the time they get  
10 it or they're not investigated adequately or there's  
11 no resources, that's why sometimes we see these  
12 incidents and then there's a second incident because  
13 the person is not yet prosecuted. Am I correct?

14 MS. HERNÁNDEZ-GUTIÉRREZ: Not necessarily.  
15 The cases that do concern me that do worry me a lot  
16 are cases of sexual abuse, of child abuse, that are  
17 not necessarily reported on time. When the police  
18 finally knows about it and initiates the  
19 investigation, the prosecutor will identify that that  
20 child may need services before being able to act as a  
21 witness in any proceeding. And so many times what  
22 happens is that the case stays in the stage of  
23 providing services and then the agent who is in charge  
24 of the sexual crimes may be either transferred or he  
25 has to deal with other cases and, you know, he has a

1 big workload so then we do not have the resources to  
2 follow-up on these cases and then they stay out and  
3 are not addressed.

4 THE COURT: But what you're saying about  
5 these crimes this could also happen now with the hate  
6 crimes, it could also happen with domestic violence  
7 crimes because sometimes the victim needs intervention  
8 or, you know, somebody ends up in a mental hospital  
9 for several months or, as you said, officers can  
10 retire or an officer can say I'm moving to California,  
11 nobody knows. Am I correct?

12 MS. HERNÁNDEZ-GUTIÉRREZ: It could happen.  
13 It could be, but when it's an adult victim the adult  
14 can communicate with the police and something can be  
15 done. But these cases they are children and children  
16 cannot voice out, and many times the situation occurs  
17 in their family environment.

18 THE COURT: And what you're saying about the  
19 Financial Board and additional resources I take it  
20 ideally you would have the current staff that is  
21 attending the ongoing crimes that can be resolved  
22 quickly, but for particularly the cold cases you would  
23 need additional personnel who can focus on those  
24 cases. And I know, for example, the justice  
25 department in Puerto Rico you have the district

1 attorney offices and they handle things on the spot.  
2 Also, at main justice you have different units who  
3 investigate and take judicial time to prosecute and  
4 those can be like financial crimes or other matters  
5 that you take your time and you investigate and then  
6 you prosecute. So definitely I understand what you're  
7 saying is the Financial Board has to take that into  
8 consideration and has to allow the greatest number of  
9 resources. Am I correct?

10 MS. HERNÁNDEZ-GUTIÉRREZ: Yes. The other  
11 project that is very important is to develop the  
12 statistics on hate crime incidents. So the  
13 declaration of emergency by the governor and the  
14 creation of PARE Committee has been integral. So at  
15 this time we are trying to expand the gathering of  
16 information so that we not only rely on the statistics  
17 of the Puerto Rico Police through complaints but we  
18 also can use information from the prosecutors who  
19 identify these events.

20 I can assure that the communication between  
21 the Department of Justice and the Puerto Rico Bureau  
22 has been excellent -- the Puerto Rico Justice  
23 Department and the Puerto Rico Police has been  
24 excellent. We have a lot of work groups where we have  
25 the needs, and we also have seminars where we can

1 share experience and knowledge. But I definitely  
2 understand that there is a need to reinforce the  
3 divisions of sexual crimes, sexual abuse, and child  
4 abuse, and hate crimes.

5 And I bring to the attention, for example,  
6 Fajardo; they only have two agents to deal with sexual  
7 crimes and child abuse. And so it is important that  
8 because the Department of Justice is taking all these  
9 steps it is important for the Puerto Rico Police to do  
10 so. We will not be able to have results if the Puerto  
11 Rico Police does not improve in the distribution of  
12 resources in these items.

13 THE COURT: And let me also ask, so I think  
14 what you're saying -- and this is something obviously,  
15 you know, the Financial Oversight Board is an entity  
16 of the Puerto Rico government even though it was  
17 created by federal law. But I think what is important  
18 is that the board -- and obviously we have a  
19 transcript here so we can at some point show it to the  
20 board. But I think what you're saying is it's very  
21 important that, particularly for these sorts of crimes  
22 overall for policing and prosecution, you can't look  
23 it as a line item in a budget spreadsheet because if  
24 you do so then you don't have the resources to attend  
25 all these crimes the way they have to be attended.

1 Correct?

2 MS. HERNÁNDEZ-GUTIÉRREZ: Yes, Your Honor.

3 THE COURT: So I agree with what you've been  
4 saying. What I can do as a judge -- I concur with the  
5 Puerto Rico Justice Department and I would urge the  
6 Financial Board to the extent possible to again take  
7 special consideration of these particular needs. This  
8 is very important.

9 Let me also ask you another question. I know  
10 that at least for the hate crimes and also when minors  
11 are involved or abused there's a lot of a joint effort  
12 with the FBI. And that continues, correct?

13 MS. HERNÁNDEZ-GUTIÉRREZ: We have had  
14 collaboration with the FBI and the HSI. And  
15 especially with the HSI we do have a memorandum of  
16 understanding. And I have to say that this has been  
17 an experience -- not just an experience, it has been a  
18 collaborative process that has been completely  
19 excellent. And we have -- there's joint  
20 investigations by the HSI and the FBI. And in cases  
21 that are contact cases it's the state that will enact  
22 them, but when they are cases of child pornography his  
23 intervenes.

24 THE COURT: And let me note that HSI is  
25 Homeland Security for the record.



1 MS. HERNÁNDEZ-GUTIÉRREZ: And I need to  
2 inform the Court that we are collaborating not only in  
3 the investigation and prosecution but also ICE has  
4 been involved in training investigations through  
5 social networks.

6 THE COURT: And I note from my experience  
7 here in the court normally the cases that do get  
8 referred to HSI, sometimes FBI, of course are cases,  
9 as you mentioned, involve the Internet or use of cell  
10 phones or photographing, or using material that has  
11 been shipped or transported in interstate commerce so  
12 there's federal jurisdiction.

13 When it's abuse but it's abuse that takes  
14 place by a relative in a home and no Internet or  
15 anything is used then those are the ones that are  
16 prosecuted locally. So you workshare the different  
17 types of cases to go federally or state.

18 MS. HERNÁNDEZ-GUTIÉRREZ: I'm going to give  
19 Your Honor an example. This type of thing happens all  
20 the time. Children are connected to social media and  
21 an adult may connect. The adult exchanges photographs  
22 maybe with the minor and then there is contact. When  
23 this contact occurs and there is sexual abuse and the  
24 child, who in these cases tends to be a preteenager or  
25 a teenager, reports the incident to his parents and

1 ends up reporting it to the police, when the policeman  
2 consults the case with the state agent we immediately  
3 contact the agents from ICE and we initiate a joint  
4 investigation.

5 The case of sexual abuse by contact is filed  
6 by the state prosecutor and the ICE agent may have  
7 already consulted or talked with the federal agent.  
8 So once the person is charged in state court they are  
9 indicted in federal court. And so the situation turns  
10 out that because we have the problem of the double  
11 jeopardy, not being accused of the same crime, we  
12 rather split the accusations when it's contact. The  
13 sexual contact would be charged on the state side and  
14 the Internet or the social media would be charged on  
15 the federal side. And then the transportation of the  
16 minor would be done under the federal care and maybe  
17 the child will not have to testify in the state case.  
18 And the defendant in the federal case usually reaches  
19 a plea which then it eliminates that case having to be  
20 in the system for so long.

21 And when I talk about not being able to  
22 charge in two different jurisdictions I'm talking  
23 about the *Sánchez-Valle* case.

24 THE COURT: One last question, one of the  
25 challenges. The police may have evidence, may know

1 exactly what has happened but from a prosecutor's  
2 perspective, this is something I had asked last time,  
3 when the cases are brought to the Puerto Rico  
4 Department of Justice or the district attorneys --  
5 obviously probable cause is very easy for you to file  
6 a complaint, but in order to prove the case eventually  
7 unless there's a plea you need to have proof beyond a  
8 reasonable doubt. And I would suspect that, again  
9 even though the police may be doing their best job  
10 there are going to be times when a prosecutor like you  
11 who has experience you might have a case and say,  
12 Well, this statement is not admissible or, you know,  
13 this was recorded that violates Puerto Rico Law and  
14 this is not admissible.

15 So there are also matters that occur once the  
16 prosecutor has the case that either you cannot move  
17 forward with the case necessarily, or what can happen  
18 is you do your best but the judge is going to suppress  
19 or dismiss. In the federal court it's a little  
20 different because there's a grand jury and most of the  
21 cases there's much more evidence that is admissible  
22 but not admissible in state court. But at the state  
23 court level that is one of the issues that, I was at  
24 the justice department, we've also had. I had cases I  
25 had to appeal and I said there's no way that we can

1 prevail here because of the -- so you also have that  
2 particular factor, right?

3 MS. HERNÁNDEZ-GUTIÉRREZ: Yes, Your Honor.

4 THE COURT: I have no further questions.  
5 Thank you very much. Let me ask Mr. Saucedo if you  
6 want to ask a couple of questions.

7 MR. SAUCEDO: Your Honor, Mr. Castillo is  
8 going to be asking a few questions on behalf of the  
9 United States.

10 MR. CASTILLO: Thank you, Your Honor, and  
11 I'll be brief. First, we want to welcome the Puerto  
12 Rico Department of Justice to focus on these very  
13 important issues, as well as their commitment that I'm  
14 hearing providing feedback to the Puerto Rico Police  
15 Department, its operations, and its individual  
16 officers. Focusing first just on the hate crime  
17 statistics that are being developed, is there data  
18 that can be shared now?

19 MS. HERNÁNDEZ-GUTIÉRREZ: Unfortunately, no.

20 MR. CASTILLO: I understand that one of your  
21 efforts is for prosecutors to do their own analysis  
22 whether certain events constitute a hate crimes. Are  
23 the prosecutors going to be using the same criteria  
24 that the Puerto Rico Police Department uses to  
25 identify hate crimes?

1 MS. HERNÁNDEZ-GUTIÉRREZ: We use the rules of  
2 criminal procedure to establish the factors for the  
3 crime, heightened factors. And it is Rule 171 which  
4 establishes the aggravating factor which indicates  
5 that the accused person has acted by prejudice or bias  
6 or hate and it includes all the criteria. But the  
7 Department of Justice has a proposal for the PARE  
8 Committee. It's to assign the money to us so that the  
9 programming of our integrated criminal registry  
10 include the stages of finding a probable cause and  
11 accusation, to include the aggravating factors and to  
12 include the hate crimes in Puerto Rico.

13 So when the prosecutors file a case and they  
14 identify the hate crimes criteria they can identify  
15 the registry all of this information and be able to  
16 have statistics. We are presenting that proposal  
17 today and we expect it to be approved. That proposal  
18 obtained recommendations from nonprofit organizations,  
19 so we can say that it is a joint effort from the  
20 government and the society.

21 MR. CASTILLO: Thank you very much. The last  
22 point is more focused on domestic violence issues that  
23 you raised. We have some concerns about the number of  
24 PRPB officers who are involved in the alleged cases of  
25 domestic violence. Is the Puerto Rico Department of

1 Justice looking at these cases in particular and how  
2 is it participating, how is it processing these cases?

3 MS. HERNÁNDEZ-GUTIÉRREZ: This type of case  
4 is addressed as any other type of case. As it is  
5 known, many policemen do not live in the areas or  
6 regions where they work. So when a complaint for a  
7 domestic violence is charged where the suspect is a  
8 member of the police many times the prosecutors of  
9 that region don't know that policeman. If it does  
10 happen that it is a policeman who investigates in the  
11 same region where the incident occurs and the  
12 prosecutor understands that there could be a conflict  
13 of interest, a request is made to the chief of  
14 prosecutors so that the investigation can be continued  
15 in a different region. And so it's making sure that  
16 the citizen's fears are addressed in terms of how the  
17 investigation is conducted, that there's no assistance  
18 or benefit to the policeman because he works in that  
19 region.

20 MR. CASTILLO: Thank you very much.

21 THE COURT: Okay, thank you.

22 Mr. Peñagaricano or Barreto, any other questions or  
23 any other person want to clarify, or Ms. Peñagaricano?

24 MR. PEÑAGARICANO: Thank you, Your Honor.

25 Yes, just briefly, the Commonwealth would like to

1 share with the Court that under the guidance of the  
2 commissioner of the police bureau, the CIC, *Cuerpo de*  
3 *Investigaciones Criminales*, has been restructured and  
4 new policies have been drafted which will go through  
5 the reform process, paragraph 229, but I would like to  
6 if the Court will allow Captain Figueroa to briefly  
7 address the Court.

8 THE COURT: Two minutes because I want to  
9 move on. And in the afternoon we have additional time  
10 and we can also expand on that.

11 MR. PEÑAGARÍCANO: Okay.

12 THE COURT: So let me excuse the witness then  
13 and Ms. Peñagaricano thank you very much. This has  
14 been extremely helpful.

15 MS. PEÑAGARÍCANO-BROWN: Thank you, Your  
16 Honor, for allowing us to go ahead of time. Thank  
17 you.

18 MS. HERNÁNDEZ-GUTIÉRREZ: Thank you. Have a  
19 nice day.

20 THE COURT: Let's hear from the director of  
21 the reform unit.

22 CAPTAIN FIGUEROA-ORTOLAZA: Good morning  
23 again. As soon as the commissioner arrived, and this  
24 has been his priority, we've seen how the police has  
25 been dealing immediately with these gender crimes.

1 The commissioner has established a pilot project in  
2 Fajardo that will be expanded to the 13 different CIC  
3 regions. And training will be given to all of the  
4 agents to deal with crimes of domestic violence, child  
5 abuse, and sexual crimes so that any agent can deal in  
6 all of those cases including the creation of a center  
7 for processing and retraining orders that Sergeant  
8 Rivera may be able to expand on that further on.  
9 Therefore, there should be no doubt that the Puerto  
10 Rico Police Bureau has taken the measures to address  
11 quickly and efficiently all cases of gender violence  
12 crime. That would be all.

13 THE COURT: Okay, thank you.

14 Okay, then let's continue with the police  
15 officer who's in charge of the area of equal  
16 protection. Who is it going to be?

17 Good morning. For the record please state  
18 your full name.

19 SERGEANT RIVERA-VELÁZQUEZ: Good morning.  
20 Hello to Judge Gelpí and to everyone present. This is  
21 Sergeant Yvette Rivera-Velázquez. I've been in the  
22 Puerto Rico Police for 28 years. I am currently  
23 deputy director of the gender violence crimes of the  
24 Puerto Rico Police. I'm usually the supervisor of  
25 that unit, and I am here to make a presentation.



1           THE COURT: Okay. Let me ask, you heard the  
2 prosecutor from the Commonwealth Justice Department  
3 who spoke to us about a half hour and answered some  
4 questions. I believe that was Laura  
5 Hernández-Gutiérrez. I don't want you to re-read  
6 anything that has been submitted in writing, but let  
7 me ask you first, and this is probably an easier  
8 question, I assume you concur with what she has stated  
9 am I correct?

10           SERGEANT RIVERA-VELÁZQUEZ: Not with  
11 everything.

12           THE COURT: Not with everything. If you can  
13 state what you're not in agreement.

14           SERGEANT RIVERA-VELÁZQUEZ: In the police, in  
15 cases of child abuse it does a criminal investigation.  
16 So the investigation is geared to gathering all of the  
17 evidence so that the case can stand in all its stages  
18 in court. And in the case of children there is a  
19 procedure that goes through the system for the  
20 assistance of victims and children. And it is the  
21 prosecutor who decides whether this child is not  
22 prepared to testify in court and they are sent to  
23 evaluations and to be seen by psychiatrists to make  
24 sure that the child is fit to attend the hearing.  
25 Knowing that in all cases of children what is known as

1 closed circuit does not apply, so it's not in our  
2 hands that the procedure would stop.

3 And another thing I don't agree is that, yes,  
4 it is true that some agents are moved or they are no  
5 longer with the police but the cases are reassigned  
6 immediately. And many times if the agent is relocated  
7 he will continue with the case regardless of the area  
8 where he's working of course safeguarding not to  
9 re-victimize the child of the case. And likewise  
10 there is also movement of prosecutors and we expect  
11 cases to be reassigned, so we expect that there be  
12 collaboration between the police and the prosecutors.

13 And so as the commissioner of police has  
14 stated, Mr. Figueroa-Ortolaza, they are trying to  
15 unify the sexual crimes and child abuse cases. And as  
16 recently as 2019, the trainings on domestic violence  
17 are being given to agents that deal with sexual  
18 crimes. And the trainings that are given usually to  
19 the sexual crimes agents are being now provided to the  
20 agents dealing in domestic violence. And so the  
21 general order was even modified in terms of aggravated  
22 sexual assault in marriages in the Article 2.5 of Law  
23 54 which was previously being investigated by the  
24 sexual crimes. Now it's being investigated by the  
25 domestic violence unit.

1           THE COURT: Okay, thank you. You've answered  
2 most of the questions that I had, so that's good. Two  
3 more questions before I allow Mr. Saucedo or  
4 Mr. Castillo to ask any questions. What steps in the  
5 area that you cover are being taken to inform the  
6 public and that the statistics, if any, are available,  
7 accessible, they're transparent for domestic violence  
8 crimes, hate crimes? What is PRPB doing to make that  
9 transparent and accessible to the public so they know  
10 what's happening?

11           SERGEANT RIVERA-VELÁZQUEZ: Well, in the Web  
12 page of the Puerto Rico Police they have the  
13 statistics that are gathered in the stage of early  
14 intervention. And I also want to add that we are  
15 adding on the Web page of the Puerto Rico Police the  
16 different public policies in investigations so that  
17 the citizens can understand how the process goes. And  
18 it will also be included in the dashboard as  
19 previously mentioned.

20           THE COURT: Okay. You covered all my  
21 questions so let me move to -- Mr. Castillo, do you  
22 have some questions? Go ahead.

23           MR. CASTILLO: Thank you, Your Honor. No  
24 questions. We just want to note that it is our  
25 understanding that the Monitor's office will be

1 conducting a close review of these types of cases in  
2 the upcoming report and so we look forward to that  
3 analysis and working with the Commonwealth to identify  
4 and address things that need to be addressed.

5 MR. PEÑAGARÍCANO: No questions.

6 THE COURT: The witness is excused. One  
7 thing I want to comment -- and I don't know if the  
8 person -- be ready to address it this afternoon.  
9 Within equal protection it's the area of immigration,  
10 immigration-related stops. This is also going to go  
11 into community relations but that's something I want  
12 to discuss this afternoon. So let me move then to the  
13 next area at this time. Again, with the footnote that  
14 immigration will be left for this afternoon and let's  
15 go to searches and seizures.

16 Okay, good afternoon. And if you could  
17 introduce yourself for the record.

18 COMMANDER LEBRÓN: Yes, good afternoon to the  
19 honorable judge. My name is Wilson Lebrón, I'm the  
20 commissioner of drug and vice control of the Puerto  
21 Rico Police.

22 THE COURT: Okay, so I'm going to go directly  
23 to the questions. I note that one of the monitor's  
24 recurring concerns is that, in particular I believe it  
25 was in the last report CMR-4, that in executing search

1 warrants there is a significant percentage of warrants  
2 that basically have a failure rate. For example,  
3 search warrant for drugs or weapons, nothing is found.  
4 I note that in the PRPB's presentation which I have  
5 before me PRPB notes that this matter is outside of  
6 the control of PRPB and it acknowledges that there are  
7 negative results.

8 Do you have any particular explanation as to  
9 why the results can be negative? I do realize, and  
10 again from experience of many years, sometimes PRPB  
11 can get a search warrant but by the time they're ready  
12 to execute whoever had the weapons or drugs moved them  
13 somewhere else. But aside from that do you have any  
14 other explanations?

15 And let me add, in Puerto Rico, at least in  
16 the metro drug unit in the metropolitan area, there's  
17 a failure rate or lack of success rate in the search  
18 warrants. It's approximately a 47 rate, bureau-wide  
19 it's 41 percent. And when you look at other huge  
20 police departments, San Diego Police, it's about 10 to  
21 12 percent. So that's the question.

22 COMMANDER LEBRÓN: Well, in terms of the  
23 positives we are over 60; 41 goes as to the negatives.  
24 And in the area of the analysis we do know that we  
25 need to make changes in strategies because drug

1 trafficking in Puerto Rico. And so the dynamics are  
2 that it's like a spider; when you touch one area of  
3 the spider web everything moves. And so generally  
4 when we want to execute a search warrant we take the  
5 team necessary for the execution among them the canine  
6 unit.

7 And so in several cases we've had the  
8 situation where we bring in the canine and they mark  
9 in two different areas which means that there is a  
10 possibility of having illegal material in the two  
11 different areas. And so as a responsibility of our  
12 functions and our component we request the owner of  
13 the area which is where the canine is marking to allow  
14 us to search, and we get the person's consent which is  
15 called the consented search.

16 Generally those searches end up negative.  
17 However, we have to record them as searches. So in  
18 that case if we had one area to search and we had two  
19 positive areas that we search then we would be in a  
20 30 percent of negative.

21 THE COURT: Sorry to interrupt. What you're  
22 saying is that the way the statistics are kept if the  
23 statistics are kept or carried in a different  
24 manner -- for example, you had these consent searches  
25 where the negatives may be higher separated from when

1     you actually have a search warrant. Those numbers  
2     would be higher but the way they're compiled that's  
3     why the numbers seem so alarming. Am I correct?

4             COMMANDER LEBRÓN: That is a factor.

5             THE COURT: And has PRPB thought of ways of  
6     improving this or asking maybe the special master for  
7     assistance or to see how it's done in other  
8     jurisdictions? because I'm sure this is also an issue  
9     elsewhere. And maybe San Diego knows how to separate  
10    the numbers and do them in a manner -- because what  
11    you're saying is you're getting contraband but then  
12    you're trying to see if there's more, maybe there's  
13    consent but you don't get it, and then the numbers  
14    look bad. Any thoughts on that?

15            COMMANDER LEBRÓN: Yes, we are evaluating the  
16    different strategies. And I've seen the work in San  
17    Diego so basically they were focusing on the  
18    expeditiousness of the execution of the search warrant  
19    once it has been issued by the judge. And there's the  
20    percentage of cases where in general terms they are  
21    going to the specific area to be searched. So we are  
22    considering and evaluating the logistics. Sometimes  
23    we are doing two, three, four, five searches at the  
24    same time in order not to lose the evidence because we  
25    do know that we all communicate with each other

1 through the technology. And we're trying to develop  
2 entry teams and logistics teams so that we can be able  
3 to be more efficient when we do all these simultaneous  
4 search warrants. And so in terms of the accounting  
5 for it, well, the negative numbers are required that  
6 we have to inform them at all times.

7 THE COURT: Okay, thank you as to that. I'm  
8 going to move to another area. Before I do I'm going  
9 to assign and have the special master look into this  
10 to see how it consists because the monitor is going to  
11 continue collecting data and I think that's something  
12 I think the special master may be helpful comparing  
13 different jurisdictions. And perhaps in the different  
14 police districts, perhaps in Texas he may have some  
15 valuable ideas and insights so one more matter for the  
16 special master team.

17 Let me ask you a brief follow-up question.  
18 PRPB general order 600-615 on arrest and citation and  
19 order 600-612 on search and seizure lists all the PRPB  
20 forms to be included such as police report, egress,  
21 ingress form, and supervisor arrest review form.

22 Translate that and then I'll continue my  
23 question.

24 However, over the last two or three years  
25 PRPB has submitted to the monitor a substantial number



1 of files missing many of these forms and the monitor  
2 has made these findings. What is PRPB doing to  
3 address this situation?

4 COMMANDER LEBRÓN: That is real, we did have  
5 that flaw. We have taken administrative measures  
6 demanding responsibility on each one of the directors  
7 of where the flaws were detected. It is important  
8 that we designated a compliance officer to follow-up  
9 on the compliance of the situations. Sometimes some  
10 excuses were brought forth, some were reasonable,  
11 others we need to evaluate.

12 THE COURT: Okay, thank you. And my last  
13 question and then I'm going to move to another area.  
14 And this is something that since early on in this  
15 consent decree case this matter has been raised on and  
16 off and I've always had some concern, and I'm  
17 referring to what are known as investigative stops,  
18 under federal constitutional law Terry Stops.

19 In this particular case, I'm referring to  
20 Docket 1830, this is the police presentation, page 6.  
21 And let me note that this has been submitted in  
22 Spanish, I've granted leave so it's going to be  
23 submitted in English for the record but obviously I'm  
24 bilingual so I can read it.

25 Something that I'm a bit concerned about is

1 the monitor indicates that PRPB does not have a system  
2 to document and collect investigative or Terry Stop  
3 data in accordance with the agreement. The response,  
4 what PRPB says, is that actually investigative stops  
5 or detention are prohibited under Commonwealth law.  
6 And I would say this is a constitutional matter  
7 they're prohibited under Commonwealth law. That is  
8 the PRPB's position. And then it reads that the  
9 Police of Puerto Rico is in conversations with U.S.  
10 DOJ to prepare a plan to modify paragraph 60 to 64 of  
11 the agreement in light of that.

12 Translate that and then I'll come up with a  
13 question.

14 Let me say this because I think it's  
15 important for the record. The Puerto Rico Supreme  
16 Court, which would be the court who can interpret, the  
17 only court, in a binding matter that would interpret,  
18 you know, and create precedent as to if the Puerto  
19 Rico constitution has broader protections therefore  
20 Terry Stops cannot occur in Puerto Rico. The Puerto  
21 Rico Supreme Court has never ruled on that issue. I  
22 did my research up to today and that has never come up  
23 before the Puerto Rico Supreme Court. I remember many  
24 years ago there were cases but they never reached the  
25 Puerto Rico Supreme Court. So at this time there is

1 no certified prohibition by the Puerto Rico Supreme  
2 Court, there's nothing from the Supreme Court on the  
3 other hand saying, Oh, yes, they're valid. The Puerto  
4 Rico Supreme Court has never expressed itself one way  
5 or another. But the police are saying that they're  
6 prohibited in Puerto Rico, so that's the Puerto Rico  
7 Police's view.

8 But my concern goes even a little further  
9 because in fact Terry Stops, investigative stops, are  
10 taking place -- I'm not saying how frequently, maybe  
11 they're not a day-to-day issue, but when we talk this  
12 afternoon about the area of immigration there have  
13 been investigative stops, detention without probable  
14 cause of aliens and in fact they have been arrested.  
15 So in fact PRPB -- again, I don't know, it could be a  
16 .05 percent, it could be 1 or 2 percent. I'm not  
17 saying these are huge alarming numbers of 90 percent  
18 or more, no. It's a small number, but in fact  
19 investigative detentions are taking place. So I do  
20 have that concern.

21 So is there anything you want to add? I  
22 don't know if you have the exact knowledge. Probably  
23 somebody this afternoon may have more knowledge about  
24 the immigration stops, but anything you have to  
25 address regarding these Terry Stops because they are

1 in fact taking place occasionally in Puerto Rico.

2 It is alarming if it is happening. I'm  
3 saying it's not happening in humongous numbers, but  
4 even one or two unlawful arrests is something that is  
5 alarming in that perspective. But what, if any,  
6 reaction -- again, you might not be the person who can  
7 answer that, but knowing that at least in immigration  
8 crimes, Terry Stops or persons who are here illegally  
9 are being stopped on a Terry basis, do you have  
10 anything you would have to say about PRPB -- if the  
11 position is Terry Stops can occur and they are  
12 occurring, what is your position as to that?

13 And let me further add, sorry. I have from  
14 my experience here in federal court I have had drugs  
15 and firearms cases prosecuted here in federal court  
16 that began with an arrest by PRPB. And that arrest  
17 was based on a Terry Stop and of course Terry Stops,  
18 if they're not legal I'm assuming in state court,  
19 they're legal in federal court. So you can have  
20 police officers conducting a Terry Stop and then the  
21 evidence is admissible in federal court even though it  
22 may violate state law. So I do have that concern but  
23 again not only immigration but I have from past  
24 experience knowledge that Terry Stops do take place  
25 occasionally or maybe more frequently than we know.

1           COMMANDER LEBRÓN: The general order of the  
2 drug division establishes clearly the response in  
3 civil and criminal administrative liabilities of not  
4 abiding by the general order. And so in cases of  
5 searches and seizures the monitor has found that the  
6 investigating agents who performed the searches and  
7 seizures have been highly competent to find probable  
8 cause for the arrests. So I'm talking about that this  
9 is a finding that was made directly to our personnel,  
10 to our bureau, to drugs and narcotics. However, we  
11 will be evaluating this and escalating this to our  
12 bosses to evaluate it.

13           THE COURT: Okay, thank you. I have no  
14 further questions. Let me note that this afternoon  
15 when Mr. Romero addresses the Court for the record I  
16 want you two or three minutes to provide some  
17 information of your reports or your monitoring as to  
18 Terry Stops taking place.

19           And before I hear from U.S. DOJ let me say  
20 this I'll hear the answer from U.S. DOJ this  
21 afternoon, but I think the time is ripe. And, again,  
22 this is something that really impacts the reform. I  
23 am very inclined -- and, again, this is an easy  
24 question but I am very inclined to certify to the  
25 Puerto Rico Supreme Court the issue straightforward,

1 Are Terry Stops constitutionally permissible under the  
2 Puerto Rico constitution, yes or no? If they are,  
3 fine; if not, fine. But at least there is a rule of  
4 law locally. And, again, it could be the same test as  
5 the U.S. Supreme Court or Puerto Rico, like other  
6 states, could interpret it to have further protection.  
7 But I think it is something that perhaps the time is  
8 ripe because this is going to continue coming up and  
9 we're going to address it this afternoon regarding  
10 immigration. I don't need an answer now, but we'll  
11 talk about that this afternoon.

12 So, Mr. Castillo, any questions to this  
13 officer?

14 MR. CASTILLO: I'm of the opinion --

15 MR. SAUCEDO: Your Honor, I'll take it just  
16 briefly. Yes, we do want to address the hit rate  
17 discussion in the afternoon and clarify some points  
18 about what is useful in comparing and how those rates  
19 serve as indicators rather than any dispositive of  
20 anything wrong. I think the Puerto Rico witness just  
21 told us that that hit rate is a useful indicator to  
22 find out if there is any change in strategy that needs  
23 to take place. I think that was what the monitor was  
24 pointing out in his report, that the hit rate should  
25 serve as an indicator that should be considered by

1 PRPB in its cases.

2 THE COURT: Anything else, Mr. Saucedo, you  
3 want to address at this time?

4 MR. SAUCEDO: Well, we'd like to take up the  
5 issue about the Terry Stops in the afternoon, but I do  
6 want to say that we saw Terry Stops occur during the  
7 investigation, the monitor continues to find problems  
8 in the way that PRPB describes or justifies an arrest.  
9 One question I do have for the Puerto Rico witness,  
10 because I think this is relevant, is that PRPB  
11 currently does not have a system to track when an  
12 officer stops or detains someone but there is no  
13 arrest that's made. And perhaps the Puerto Rico  
14 witness can confirm [distortion] --

15 Is that stop ever documented in PRPB in a way  
16 that's tracked?

17 COMMANDER LEBRÓN: In the Puerto Rico Police  
18 all arrests are accounted for but not all are filed.

19 THE COURT: But what Mr. Saucedo is asking is  
20 that there are times you may not have an arrest but  
21 you have an intervention and that's a Terry Stop and  
22 the police officers can stop somebody not on probable  
23 cause, you don't have probable cause to arrest, but  
24 you have reasonable suspicion at least. That's what  
25 is permissible under federal law. And you can briefly

1 detain that person and even conduct a pat-down.  
2 Again, you may not find anything and the person goes.

3 What Mr. Saucedo is saying is any time a  
4 non-arrest event takes place those are likely not  
5 reported. So is there any way to report those cases  
6 or they're not reported? That's the question.

7 COMMANDER LEBRÓN: If the arrest emanates  
8 from an illegal intervention --

9 THE COURT: Let me interrupt. These are  
10 situations where there is no arrest. So the police  
11 intervene, they may do a pat-down, they may briefly  
12 detain a person to ask him questions but they don't  
13 find anything and, Well, we've got to let you go. Is  
14 that documented or not? I believe the answer is no.

15 COMMANDER LEBRÓN: Well, the thing is that in  
16 Puerto Rico the Terry Stop I mean it does not happen.  
17 I mean, it could happen. If it does happen, then the  
18 supervisor would have to be responsible to evaluate  
19 that case if it happened. And so in the case, in the  
20 totality of cases when it is and there's suspicion of  
21 a felony the cases are consulted and they always end  
22 up in an arrest.

23 THE COURT: This is something we'll discuss  
24 further in the afternoon with the Terry Stop issue  
25 because we're going to talk about immigration. Let me



1 ask, Mr. Saucedo, any other questions? We're almost  
2 getting to lunchtime.

3 MR. SAUCEDO: No, Your Honor, thank you.

4 THE COURT: Okay, Mr. Peñagaricano, anything  
5 else you want to address at this time with this  
6 witness?

7 MR. PEÑAGARICANO: Not at this time, Your  
8 Honor, we do have some points on the Terry Stop but  
9 because we're going to discuss it this afternoon we  
10 will discuss it then.

11 THE COURT: Okay. So you're excused I do  
12 want to cover one more area before we break for lunch  
13 but I believe it's just one very simple question that  
14 I have and I believe that Captain Figueroa-Ortolaza  
15 can answer it, and if he does briefly then we can  
16 break out for lunch. And then the other two areas  
17 will be for this afternoon. The most lengthy areas of  
18 discussion have taken place now in the morning.

19 We're going to refer now -- I'm going to move  
20 on now to policies and procedure. I just have one  
21 simple question. And if Captain Figueroa can answer  
22 that, he's the only thing keeping us between lunch.  
23 But, again, you can take as much time as you need.

24 This refers to policies and procedures. The  
25 question is simple. How is PRPB planning to prove or

1 to evidence that all of its officers receive and read  
2 all new and revised policies?

3 And I say this because obviously in the last  
4 couple of months PRPB has been very active working  
5 along with PRPB the special master and the monitor and  
6 a lot of policies have been implemented, for example  
7 the promotions policies. But how can you prove or  
8 ascertain that all officers are reading, reviewing and  
9 are familiar with all new policies? Do you have an  
10 electronic system that requires proof of electronic  
11 signature as a receipt, or how do you evidence that?  
12 Because you have thousands of police officers and  
13 again the policies they've been approved so they're  
14 excellent, they're great policies, but how do you  
15 ascertain that? And I know there's trainings and  
16 other matters, but how do you ascertain that every  
17 officer is reviewing these new policies? That's the  
18 only question.

19 CAPTAIN FIGUEROA-ORTOLAZA: Good morning  
20 again. As to the policies, once it is signed by the  
21 commissioner it is loaded up onto the virtual library  
22 and it is notified through *Informa Policía*. Through  
23 that mailing it is transmitted to all of the members  
24 of the police, all under rank and all that are  
25 classified.

1           And, also according to the general order in  
2           the monthly meetings, according to the 700-704 it has  
3           to be discussed in what is known as monthly meetings.  
4           And the director has to document it through two  
5           documents that were created for this 704.1 and 704.2.  
6           One of the documents is the agenda that indicates all  
7           the subjects or the policies that were scheduled to be  
8           discussed in that monthly meeting, the other document  
9           is one where each participant of that meeting has to  
10          sign in. In the case that an employee cannot attend  
11          that monthly meeting within the following five days  
12          that the employee comes back that policy has to be  
13          discussed with him. And that is one of the areas that  
14          the police is currently carrying out.

15                 And I want to give you my own experience.  
16          When I came into the police, I was working in the  
17          command center and we did not have access to the  
18          policies. The command center director had worked with  
19          my father and thanks to that relationship on Friday  
20          afternoons I would take the files of the policies that  
21          he had in the office to take them to a printer and  
22          with my own money make copies of each one of those  
23          policies. And to see nowadays that I have the policy  
24          so accessible on my own phone is really a  
25          transformation.

1 THE COURT: Okay, thank you. I have no  
2 questions.

3 Mr. Saucedo, any follow-up question?  
4 Mr. Saucedo, any follow-up question as to this? Or  
5 Mr. Castillo?

6 MR. SAUCEDO: No, Your Honor, no questions.  
7 Thank you very much.

8 THE COURT: I think Mr. Peñagaricano I put it  
9 hard on you. Any follow-up?

10 MR. PEÑAGARICANO: No questions, Your Honor.  
11 Just a question to the Court whether on this area of  
12 policy and procedure is the Court going to have  
13 further questions to the Lieutenant Quiñones?

14 THE COURT: No, that's the only matter on  
15 policy and procedure. This afternoon when we come  
16 back we're going to talk about professionalization and  
17 then complaints and internal investigations, those two  
18 areas. My questions are much more limited than the  
19 ones this morning so it should take us 45 minutes or  
20 an hour and then we'll go address all the other  
21 matters. If we're going past 5:00 p.m., maybe 5:30 a  
22 little bit, we'll do so that way we don't have to  
23 reconvene tomorrow. We definitely can finish today.  
24 Everybody have a great lunch. In Mr. Saucedo's case  
25 have a good breakfast now. And with the Dallas folks

1       you have about another hour for lunch. So let's  
2       recess and I'll see you at 2:30.

3               (Hearing recessed at 11:38 a.m. and resumed  
4       at 2:30 p.m.)

5               THE COURT: Please be seated. I hope you had  
6       a nice lunch or in Mr. Saucedo's case breakfast.  
7       We're now going to continue with the afternoon's  
8       session right where we left. I want to note for the  
9       record that this hearing is open to the public and  
10      it's a public hearing and it's live with the exception  
11      of Mr. Saucedo and the Special Master's team and  
12      Mr. Castillo but it is a live hearing and it's open to  
13      the public.

14              I want to before we go to the next area if  
15      the Monitor or Mr. Saucedo could identify -- I know  
16      there's I believe it's six members of the community  
17      who are here you can identify. I think you probably  
18      have the whole list so it would be good to identify  
19      who is here for the record.

20              MR. SAUCEDO: Yes, Your Honor. Thank you for  
21      this opportunity and I apologize for not having this  
22      list earlier in the morning. We're joined today by  
23      Ms. Modesta Irizarry who is a community leader in  
24      Loiza. Mr. José Rodríguez who is from the Dominican  
25      Committee For Human Rights. Ms. Milagros Catalá,

1 community leader in Naranjito and the community  
2 neighborhood council. Ms. Yarima González from  
3 Kilometro Zero. Angelica García-Romero from Alianza  
4 Por la Paz. Yorely Rivera from Iniciativa  
5 Comunitaria. And also present, Ilene Rivera-Rijo  
6 representing the general counsel of the Dominican  
7 Republic. We thank each of these members on behalf of  
8 the United States for being here. Their input  
9 continues to be valuable in this process. Thank you.

10 THE COURT: Okay, thank you very much for  
11 being here.

12 I'll say it Spanish and you can translate for  
13 the record.

14 THE INTERPRETER: Thank you all for being  
15 here. Your contribution is very valuable for the  
16 Monitor, for the Puerto Rico Police Bureau, and for  
17 this Court. So you are all very welcome here.

18 THE COURT: Okay, Mr. Peñagaricano, you had  
19 something you wanted to say before we proceed.

20 MR. PEÑAGARICANO: Yes, Your Honor, thank  
21 you. We'd also like the record to show also  
22 Carmencita del Rosario from the community of Fajardo  
23 is also here present. And also on behalf of the  
24 Commonwealth in the afternoon session the subsecretary  
25 of the Department of Public Safety, Rafael is present

1 as well as Arturo Buford-Crowley and Attorney Miguel  
2 Candelario who is the in-house counsel for the  
3 department.

4 THE COURT: Okay, so welcome all. And we're  
5 going to proceed then.

6 Okay, so the two topics that we have left  
7 before we go into the status conference part of the  
8 public hearing are professionalization and internal  
9 investigations and complaint. So let me start then  
10 with professionalization. Who is going to be  
11 addressing the Court?

12 MR. PEÑAGARÍCANO: Lieutenant Jojanie Mulero.

13 THE COURT: Okay, so good afternoon  
14 Lieutenant Mulero. For the record, we already know  
15 your name but if you could state your background and  
16 your experience with PRPB and then I'll proceed to ask  
17 you, it's very few questions.

18 LIEUTENANT MULERO-ANDINO: Good afternoon to  
19 the court and everyone present. My name is Jojanie  
20 Mulero-Andino and ever since march 8 of this year I've  
21 been directing the human resources bureau. I've been  
22 in the police for 17 years and I'm available to answer  
23 the questions of the honorable court.

24 THE COURT: Okay, so let me begin. Actually  
25 I have two questions maybe one with subparts. The

1 first question is as follows: The Monitor has  
2 interviewed people who successfully completed the  
3 promotional -- or officers who successfully completed  
4 the promotional process from sergeant to first  
5 lieutenant and from first to second lieutenant. That  
6 test had been given to these members nearly five years  
7 ago.

8 The question is, has PRPB come up with a plan  
9 to conduct more frequent exams that would allow a  
10 greater number of qualified men and women to compete  
11 on a more frequent basis for ranks up to and including  
12 captain?

13 LIEUTENANT MULERO-ANDINO: Yes, correct.  
14 Yes. The Commissioner, Antonio López-Figueroa, one of  
15 the things he has done is he has endeavored us to  
16 create the promotions examination board. Once the  
17 board is constituted then the examinations will be  
18 created and the convocations made and we'll prepare  
19 everything necessary to administer the test.

20 THE COURT: Okay. And when do you estimate  
21 the promotions board would be -- would have everything  
22 in place to begin opening these positions for  
23 competition?

24 LIEUTENANT MULERO-ANDINO: I cannot give you  
25 a date right now.



1 THE COURT: Could you estimate maybe end of  
2 this year? End of next year? Very rough time frame  
3 nonbinding any anybody.

4 LIEUTENANT MULERO-ANDINO: No, I do not have  
5 the answer.

6 THE COURT: Okay. And my follow-up question  
7 is, obviously you are being in charge of the Bureau of  
8 Human Resources, this promotions process which it goes  
9 all the way to second lieutenant, as the promotions  
10 process that goes all the way to the highest ranks I  
11 assume or I would hope to hear that your answer is  
12 going to be what I hope to hear, but it's being --  
13 it's a process that is merit based and depoliticized.  
14 So whoever does well on the exams it shows necessary  
15 characters and all other considerations that are  
16 objective will be selected. Am I correct?

17 LIEUTENANT MULERO-ANDINO: Yes, correct.

18 THE COURT: Okay, thank you. Now, my next  
19 question is the following. And when the Monitor was  
20 interviewing PRPB candidates for promotions this issue  
21 has -- or this topic has come up.

22 The question is, why does PRPB extend a  
23 ten-point overall benefit to anyone who has a record  
24 of active reserve guard U.S. military service in the  
25 past irrespective of whether the person was in a

1 combat unit, wounded, disabled, or decorated? Is this  
2 due to any law or merely an executive decision made by  
3 PRPB?

4 If it is discretionary, then why does a  
5 current or former member of any military unit with no  
6 college education merit ten points while an officer  
7 who studied for and received a four-year bachelor's  
8 degree merit only five additional points?

9 Has PRPB conducted any study showing that a  
10 current former member of the military with no college  
11 makes a better superior officer than one who studied  
12 and received a four-year degree?

13 Again, I'm taking no position and I note my  
14 own objection because it's a compound question so if  
15 you need me to repeat, I will. Please go ahead.

16 LIEUTENANT MULERO-ANDINO: No, I don't know.

17 THE COURT: Okay, I have no further  
18 questions. Let me ask if Mr. Saucedo has additional  
19 questions.

20 MR. SAUCEDO: Yes, Your Honor, briefly. The  
21 appropriate allocation of personnel and resources is  
22 necessary to provide quality service to the community.  
23 Is PRPB using the V-28 tools that were developed to  
24 allocate appropriate staffing?

25 THE INTERPRETER: I'm sorry, Counsel, can you

1 repeat the question. I missed something.

2 MR. SAUCEDO: Sure. Ensuring that there's  
3 appropriate personnel and resources that's necessary  
4 for providing quality service to the community, is the  
5 PRPB using the V- 28 staffing study to help allocate  
6 those resources throughout the agency?

7 LIEUTENANT MULERO-ANDINO: The V-28 study is  
8 from 2018. The company delivered the data for the  
9 study and the IT bureau together with the interboro  
10 company will adjust those necessities to the reality  
11 of the Puerto Rico Police. We will be able to see in  
12 modules on realtime the needs of the agency.

13 THE COURT: Okay. And --

14 MR. SAUCEDO: I have one more question, Your  
15 Honor.

16 THE COURT: Let me just follow-up on that  
17 question briefly.

18 Any time frame again rough estimate?

19 LIEUTENANT MULERO-ANDINO: No, no. It may  
20 take a few months.

21 THE COURT: Okay, Mr. Saucedo.

22 MR. SAUCEDO: Just one last question, Your  
23 Honor. What steps does PRPB take to allocate officers  
24 closer to home to promote community policing? And is  
25 that system currently in operation?

1           LIEUTENANT MULERO-ANDINO: The reality of the  
2 police, based on recruitment statistics recently, out  
3 of 664 recruits only 28 are from the metropolitan  
4 area, from San Juan. So with regards to the transfer  
5 it's worked on according to the transfer registry.

6           THE COURT: Let me ask you, would you have --

7           MR. SAUCEDO: One last question.

8           THE COURT: Let me follow-up on this one and  
9 then you can ask your last one.

10           Would you have any reason or idea why out of  
11 the 600 plus recruits only 28 were from San Juan? One  
12 possible answer is that San Juan municipal police may  
13 offer some better benefits or higher salary. I'm just  
14 speculating. But any ideas of why is that? Because  
15 San Juan is probably the largest -- well, it is the  
16 largest area in Puerto Rico.

17           LIEUTENANT MULERO-ANDINO: Well, the reality  
18 is that entering the Puerto Rico Police it is a  
19 difficult recruitment. In terms of the San Juan  
20 municipal police the Puerto Rico Police has better  
21 salaries and better benefits.

22           THE COURT: Okay. Mr. Saucedo, your final  
23 question.

24           MR. SAUCEDO: Yes, I was just going to ask  
25 whether the human resources office manages the

1 registry of transfers that was just discussed earlier?

2 LIEUTENANT MULERO-ANDINO: Yes, correct.

3 MR. SAUCEDO: Thank you.

4 THE COURT: Does the Commonwealth have any  
5 follow-up questions or does Captain Figueroa want to  
6 clarify anything?

7 MR. PEÑAGARÍCANO: Very briefly, Your Honor,  
8 just a couple of points on the rough estimate that the  
9 Court was seeking regarding the implementation of the  
10 protocol and the board. As the witness said, it's  
11 hard to estimate but a few months is as best as we can  
12 tell the Court at this time. The entire reform  
13 process will be included in the entire process of such  
14 implementation. The second point was regarding the  
15 questions of the Court regarding the ten-point system  
16 regarding the protocol and that corresponds to an act.  
17 And we will be glad to provide the Court at a later  
18 time more details about it.

19 THE COURT: Okay, thank you. Okay, so you're  
20 excused. Thank you very much.

21 And the last area we're going to cover now is  
22 complaints and internal investigations.

23 MR. PEÑAGARÍCANO: Your Honor, in the  
24 transition to the next witness I just want to say for  
25 the record that also from the office of the governor

1 Marsha de Jesus is also present for the Commonwealth.

2 THE COURT: Okay, welcome. Okay, so who is  
3 here now for this sixth area?

4 MR. PEÑAGARÍCANO: Colonel José Ramírez.

5 THE COURT: Welcome back Colonel Ramírez.

6 COLONEL RAMÍREZ: Good afternoon, Honorable  
7 Judge.

8 THE COURT: Just a few questions so I'll get  
9 to the point. The first question is, the Monitor is  
10 concerned that the PRPB random drug screening program  
11 is not as effective as it should be or could be. In  
12 particular, the Monitor has been concerned that not  
13 enough officers are being screened annually and that a  
14 seemingly small percentage of said subjects test  
15 positive.

16 With respect to the small number of positive  
17 tests among its workforce, how does PRPB explain this  
18 small percentage?

19 COLONEL RAMÍREZ: Well, certainly last year  
20 with the situation that happened of COVID there was a  
21 situation with the Forensic Sciences Institute where  
22 we provide the logistics and we perform a random  
23 system for drug testing that's confidential and it is  
24 for the whole island.

25 As of today in this year we have 1,896 tests

1 performed. And so always in the month of July the  
2 system is affected because we need to renew the  
3 contract with the Forensic Sciences Institute and the  
4 physician. We will be meeting soon with the  
5 commissioner who is already interested in having  
6 greater drug tests and we now have a budget for it.

7 THE COURT: And let me also note that this is  
8 something that is a fact. The Forensic Science  
9 Institute was until recently, I believe early in this  
10 administration, under the umbrella of the Department  
11 of Public Safety. It's no longer part of the  
12 department and before it was as it currently is.

13 Obviously, as you said, I assume that's why  
14 we're back to having contractual issues, they have  
15 their budget issues, budget issues. So it all  
16 depends. Again, Secretary Alexis Torres can no longer  
17 give administrative supervisory instructions to  
18 Forensic Science, correct?

19 COLONEL RAMÍREZ: Well, obviously, yes, I  
20 mean we do have the staff available and we have the  
21 logistics to perform these tests but obviously we  
22 depend on the Institute of Forensic Sciences and with  
23 COVID and all they have their own protocols and so  
24 sometimes things are delayed.

25 THE COURT: Okay, going to another area, in

1 the fourth monitor report the Monitor described from  
2 its investigations or review two independent versions  
3 of the same SARP supervisor taking measures that could  
4 amount to interference in a subordinate's  
5 investigation with a possible obstruction of justice.  
6 And let me say that it is not the norm, it is an  
7 isolated case, but it's important to bring this matter  
8 up. Translate that and I'll continue with the  
9 question.

10 COLONEL RAMÍREZ: In regards to that case,  
11 Your Honor, an investigation was ordered on behalf of  
12 Internal Affairs to evaluate all of the information  
13 that came in from the Monitor's report and we will  
14 soon have a complete report that will be referred to  
15 the commissioner.

16 THE COURT: Okay. Now, let me also say I  
17 assume this will be part of the report, but in the  
18 meantime what measures have been taken to ensure the  
19 integrity of the SARP investigations signed off by  
20 that particular supervisor? And what plan does PRPB  
21 have to ensure the integrity of its employees and  
22 investigating findings moving on forward?

23 COLONEL RAMÍREZ: Yes, one of the priorities  
24 of the Office of Professional Responsibility is that  
25 all investigations be diligent, exhaustive, clear,



1 fair and impartial. And so when I met with the  
2 commissioner he was very clear that this was very  
3 warranted and there would be monitoring. And if any  
4 irregularity were to be detected then the appropriate  
5 sanctions would be imposed.

6 THE COURT: Okay, thank you. Last question,  
7 during the last status conference and public hearing  
8 we addressed the issue of the IES and the issue of  
9 whether it's placed under SARP and that it may be  
10 viewed as a punitive instrument when it is not so. I  
11 want to ask you if you have any follow-up on that  
12 since our last status conference.

13 COLONEL RAMÍREZ: Well, the IES system we  
14 participate as part as an application and it's been  
15 very effective ever since it's been implemented with  
16 the complaint control system because it allows us to  
17 keep direct supervision ever since the complaint is  
18 initiated until it is investigated in order to abide  
19 by the terms according to the *Reforma* agreement.

20 THE COURT: Okay, I don't have any further  
21 questions so let me open it up to Counsel Saucedo or  
22 Mr. Castillo.

23 MR. CASTILLO: Thank you, Your Honor. Just  
24 one or two questions. First, speaking of the matter  
25 of the supervisor who may have been interfering with

1 SARP investigations, was that referral for an  
2 investigation, an internal investigation, on that  
3 supervisor's actions made before or after the Monitor  
4 published its fourth report?

5 COLONEL RAMÍREZ: No. We pay attention to  
6 all of the reports of the Monitor pertaining to the  
7 SARP and we order the corresponding investigation  
8 because we do not have knowledge at the central level  
9 of that information that the Monitor obtained.

10 THE COURT: Let me follow-up on that  
11 question. And this is not going to happen overnight  
12 but let's assume that in the next couple of years this  
13 case is closed and there is no monitor. If there is  
14 no monitor, information such as this would then never  
15 arrive through proper investigation. And I'm saying  
16 this not to have anybody panic -- and this is  
17 something that perhaps the director of the reform  
18 office can answer, but it is something that I know in  
19 other jurisdictions -- and, again, I'm not the super  
20 expert, but in other jurisdictions there's no federal  
21 monitoring but the state has created sort of like a --  
22 in New Orleans, for example, there's an independent  
23 Monitor's office created by the state and once the  
24 Monitor of that case is closed there's still  
25 independent monitoring.

1 Am I correct in saying that without some sort  
2 of oversight that perhaps is created by state law, or  
3 right now we have federal monitoring, information like  
4 this probably would have never reached you, am I  
5 correct?

6 COLONEL RAMÍREZ: We do agree.

7 THE COURT: The case is not going to be  
8 closed now but that is something that I think  
9 everybody should have in the back of their minds  
10 because at some point I know the Commonwealth does not  
11 want to be under federal supervision. And I just  
12 bring the New Orleans model -- and if anybody from  
13 PRPB wants to consult Dr. Del Carmen is familiar with  
14 that office and I did go to that office once or twice  
15 when I was there. But I think it's a good point and  
16 thank you for your honesty in answering that question.  
17 But, again, in the long run that's something the  
18 Commonwealth has to think about what steps guarantees  
19 this so information like this will actually get to  
20 PRPB.

21 Mr. Castillo, more questions?

22 MR. CASTILLO: No further questions. Thank  
23 you.

24 THE COURT: Mr. Peñagaricano, anything you  
25 want to address?

1 MR. PEÑAGARÍCANO: No, Judge, not at this  
2 time.

3 THE COURT: So you're excused Colonel  
4 Ramírez.

5 And now we're going to move to the next part  
6 of the -- we're done with the public hearing part and  
7 now we're going to go to the status conference part.  
8 Okay. Now, before we go into this let me note that I  
9 have -- there were submitted to the Court three  
10 written presentations from members of the community.  
11 One is from *Alianza Para La Paz Social* submitted by  
12 ALAPÁS. I read it. I thank the representatives from  
13 ALAPÁS. This will be made part of the record. I'll  
14 give it to the courtroom deputy and I'll have the  
15 court interpreter as soon as possible translate it for  
16 the record.

17 The second one I have is from Carmen Milagros  
18 Catalá-Otero from Naranjito, submitted another  
19 statement. And then the third one is from Maria del  
20 Carmen Rosario from Fajardo.

21 MR. BARRETO-SOLÁ: Your Honor.

22 THE COURT: Yes, Mr. Barreto.

23 MR. BARRETO-SOLÁ: May it please the Court.  
24 Counsel for the Puerto Rico Police Department have not  
25 been privy to those documents, so we have never had a

1 chance to read those. And we would like to have a  
2 chance to read that report before it's admitted into  
3 the record.

4 THE COURT: Okay, so I do have it here, I'm  
5 going to give it to the courtroom deputy. Once we're  
6 done with the hearing -- I don't know if U.S. DOJ has  
7 seen them. Mr. Castillo, have you seen them or not?

8 MR. SAUCEDO: Your Honor, we have not seen  
9 those letters.

10 THE COURT: Okay, so what I will do is I  
11 won't make them part of the record right now. I'll  
12 give them to the Monitor. I believe the Monitor  
13 provided them to me. Maybe one of them may have been  
14 sent directly to the Court. I thought everybody had  
15 them, but the Monitor will provide them to everyone  
16 else, everyone can take a look, and I just want to  
17 make sure everybody has them. I note for the record  
18 that I did receive these three separate written  
19 statements from the community. So I'll give them to  
20 the courtroom deputy and she has them.

21 Okay. So now let me just very briefly in  
22 closing. We've now gone over the 11 areas of the  
23 reform agreement. I do want to say that over the last  
24 two sessions I've received many satisfactory  
25 responses. I think -- I don't think -- PRPB I want to

1 say is on the right track. Rather than challenging  
2 everything that the Monitor finds they're taking a  
3 proactive approach and they're saying if that's the  
4 finding let's see how we're going to move along and  
5 move ahead and we're planning towards that. So I want  
6 to commend that.

7 There are some unanswered questions, but I  
8 think the deponents have been very honest by saying I  
9 don't have an answer or we're going to follow-up on  
10 that, so that's also very important. But the bottom  
11 line of all of this is it is very important to have  
12 the inside of where PRPB is now. U.S. DOJ needs to  
13 know that, the Court needs to know that, the Monitor  
14 needs to know that, more importantly PRPB needs to  
15 know that. And there are areas also that are very  
16 important because the Special Master will be helping  
17 in certain troubled areas. Particularly there were a  
18 couple of areas last status conference and one other  
19 area today that I'm going to assign to the Special  
20 Master. So overall I think it's been a very  
21 productive public hearing part discussing all of these  
22 11 policies.

23 We're now going to proceed to the other part  
24 of the status conference which is basically hearing  
25 from the attorneys themselves but before that let me

1 start by asking -- I know that the secretary of public  
2 safety excused himself. I know the deputy secretary  
3 Mr. Riviera is here. If you would like to make a very  
4 brief statement, it could be a simple good afternoon  
5 everybody, but you're welcome. If Mr. Riviera wants  
6 to say anything, please go ahead.

7 MR. RIVIERA: Thank you. Good afternoon,  
8 Your Honor. Members from the U.S. DOJ, the federal  
9 monitor and his team Special Master and the  
10 representatives of the community that we serve and  
11 we're part of. On behalf of the secretary of the  
12 Department of Public Safety, Alexis Torres, we again  
13 welcome the opportunity to address the Court on the  
14 continued efforts to ensure that the sustainable  
15 reform of the Puerto Rico Police Bureau attains  
16 maturity.

17 We continue to invest time and resources on  
18 all 11 compliance areas of the decree. Last update  
19 details several area for successes while also  
20 highlighting some areas for continued improvement.  
21 For this update under policies and procedures we have  
22 worked in step with all parties involved to continue  
23 to make necessary and timely adjustments.

24 As it pertains to search and seizures, our  
25 methodology are fully compliant and we are aligned

1 with all the requirements laid out in the decree. We  
2 are taking very seriously the Monitor's concern on the  
3 percent of those searches producing negative results.  
4 The police bureau has made significant strides as it  
5 pertains to the use of force which the Monitor has  
6 duly recognized; however, we have the opportunity to  
7 improve administratively by adjusting our procedures  
8 in regards to single versus multiple reporting during  
9 use of force events.

10 As it pertains to complaints and internal  
11 investigations, we're taking steps to increase the  
12 number of personnel assigned to our division of  
13 professional responsibility in addition to identifying  
14 adequate funding.

15 The Department of Public Safety in this case  
16 specifically our police bureau is enforcing all  
17 mechanisms available which enhance equal protection  
18 and prevent discriminatory practices.  
19 Professionalization of the police force is a key area  
20 in which we, to include the commissioner of the police  
21 bureau, and working arduously. Specifically we are  
22 reinvesting in the police academy both in physical  
23 improvements, as well as working to enhance curriculum  
24 and training in a manner that would produce a more  
25 well-rounded police officer.



1           As it pertains to information technology  
2       systems, the secretary, in concert with Police  
3       Commissioner Antonio López, has authorized a contract  
4       that would tie all relevant platforms into a single  
5       data collection and analysis repository. In addition  
6       to the GAAP analysis already completed on this matter,  
7       it will provide readily available data and analytics  
8       framework in order to facilitate all aspects of the  
9       decree compliance.

10           I thank you, Your Honor, for the Court's  
11       time.

12           THE COURT: Okay, thank you Mr. Riviera and  
13       you're always welcome here.

14           Okay, now let's hear then -- I should have  
15       done this first, but I'm a little bit out of order  
16       today. Ms. Ortiz from the governor's office. His  
17       personal representative is here. Ms. Ortiz, if  
18       there's anything you would like to say. It can be  
19       simply hi, good afternoon.

20           MS. ORTÍZ-RIVERA: Very briefly just to  
21       inform the Court and all the parties that we have been  
22       working with several health requests to coordinate the  
23       transportation for the Monitor's office and we have  
24       made some advances and we will have an answer today  
25       for the request of the transportation issue that we

1 are facing right now.

2 THE COURT: Okay, thank you. Let me just ask  
3 you another question. You can answer it now, if not  
4 later. Let me ask you, from your perspective working  
5 directly alongside with the governor, how useful are  
6 these public hearings? Because I know you're here and  
7 you take information. You might not meet with him  
8 today but when he's got his time directly for you he's  
9 got all your attention, you submit this information.  
10 How helpful is that? I think it is, but I want to  
11 hear from you.

12 MS. ORTÍZ-RIVERA: Well, I do think it is  
13 because I can get all the picture of all the issues  
14 that are being discussed apart from, you know, reading  
15 the reports, and also to inform the governor where  
16 we're at, and to tell him exactly where the stage that  
17 we're in and the realities of what needs to be done  
18 within a specific time frame. So that's basically  
19 what I think is helpful for these hearings.

20 THE COURT: Glad to know it's helping. Okay,  
21 thank you very much and welcome.

22 Now we have the commissioner is here also so  
23 let's hear from the commissioner, Mr. López.

24 COMMISSIONER LÓPEZ-FIGUEROA: Good afternoon,  
25 Your Honor. Good afternoon to everyone present. Good

1       afternoon, Honorable Judge. I'm Commissioner Antonio  
2       López-Figueroa of the Puerto Rico Police Bureau and  
3       this afternoon -- I was present this morning -- I  
4       would like to clarify several points of discussion.  
5       For example, in the case where Prosecutor Laura  
6       Hernández rendered a report this morning regarding  
7       matters of children and sexual crimes. Possibly in  
8       prior years the situation that she very well explained  
9       may have happened in the past; however, ever since  
10      January 4th of 2021 when yours truly assumed the  
11      leadership of the Puerto Rico Police I established as  
12      a goal to merge the divisions of sexual crimes, gender  
13      violence, and children's matters so that a single  
14      investigator can and can have the capacity and the  
15      training to investigate all three types of crimes or  
16      incidents without having to re-victimize the affected  
17      person. In turn, it also serves to maximize resources  
18      that exist in these divisions.

19             Another matter regarding transfers wherein a  
20      sustainable reform agreement of the Puerto Rico Police  
21      demands and requires that each one of the personnel  
22      transfers to other police areas be strictly by number  
23      of application presented because in the past transfers  
24      were made without taking into account the time that it  
25      represented. And those were complaints that had been

1 filed by people who had been working in the  
2 metropolitan area for 18 to 20 years who were entitled  
3 to be transferred to the area where they live and it  
4 was not possible in that aspect. So now it's being  
5 done strictly by turn of transfer.

6 We always appreciate team work by Monitor  
7 John Romero who is doing an excellent work in the  
8 monitoring and oversight of the agreement. However,  
9 the police has extremely capable officers that assume  
10 the responsibility of attending any situation like the  
11 one that was presented this afternoon of alleged and  
12 undue influence in administrative investigations which  
13 have no space under the leadership of yours truly nor  
14 in the Puerto Rico Police Bureau.

15 As soon as we learned of that situation,  
16 Colonel Ramírez informed me and the investigation  
17 immediately ensued, and we are very close to receiving  
18 the results thereof so that the persons involved could  
19 receive what corresponds to them. As always, we are  
20 willing to work as a team in everything related to  
21 this agreement and in the search that it can all be  
22 resolved by 2023. That is all. Thank you very much.  
23 Good afternoon.

24 THE COURT: Okay, thank you. Commissioner,  
25 just two questions. The first question, I assume this

1 continues to be the norm but how frequently do you  
2 meet with the Attorney General? I assume in the past  
3 I know, and I worked for the government, that at  
4 Fortaleza the governor would have counsel for security  
5 and you would meet. But also I'm sure you meet with  
6 him periodically to discuss. And I'm sure after this  
7 hearing there are issues that are important that  
8 everyone talk together. But do you meet frequently  
9 with the secretary of justice or the person who is  
10 known as the Attorney General in other states?

11 COMMISSIONER LÓPEZ-FIGUEROA: Weekly. And I  
12 was in his office yesterday. We have an excellent  
13 relationship. We're working as a team and we have  
14 seen the result by the constant filing of criminal  
15 cases and by phone calls also constantly.

16 THE COURT: And let me follow-up on that. I  
17 know the answer to this one also but for the record, I  
18 understand currently PRPB's and your relationship with  
19 FBI, DEA, Homeland Security and all the other agencies  
20 is excellent. And you continue to work alongside and  
21 together and you have many task force officers who are  
22 helping these federal agencies and that continues to  
23 be the case, correct?

24 COMMISSIONER LÓPEZ-FIGUEROA: Yes. I've met  
25 with each one of them. They have 453 Puerto Rico

1 Police agents in their task force. And all cases that  
2 we're following up are with persons who continue to  
3 conduct criminal activity. We all work as a team so  
4 that they can assume jurisdiction of those cases.

5 THE COURT: Thank you. That's good to hear.  
6 And finally, do you have a date for the next  
7 graduation or not yet from the academy?

8 COMMISSIONER LÓPEZ-FIGUEROA: It's scheduled  
9 for September 20th; however, I'll give you the date  
10 next week. It will possibly be in October, early  
11 October.

12 THE COURT: Okay, please do because that's  
13 one of my favorite parts of my job, going there and  
14 seeing everybody. The culmination of -- I've seen  
15 these curriculums since they were created so for me  
16 it's important to see these fine men and women  
17 graduates. I have to say the women have been getting  
18 the top award. We're seeing more and more women  
19 graduate and that is excellent so I look forward and  
20 the Monitor looks forward, if possible, to attend.  
21 And I have to say it's the last time the governor was  
22 there and I think to the extent he can always be there  
23 it's very important. So thank you very much,  
24 Commissioner.

25 COMMISSIONER LÓPEZ-FIGUEROA: Thank you.

1 THE COURT: Okay, thank you.

2 Now we're going to hear from the Monitor and  
3 the Special Master. I know since Dr. Del Carmen has  
4 not been here in Puerto Rico I'm sure he hasn't spoken  
5 at least for a little bit. Let me hear from Dr. Del  
6 Carmen his report from the Special Master. I assigned  
7 you one additional task today so let me hear of all  
8 the matters you're working on. Give me good news.

9 SPECIAL MASTER DEL CARMEN: Yes, Your Honor.  
10 I don't know about good news but I'll certainly give  
11 you reality and the truth. So for starters I will  
12 tell you that the Special Master's office was assigned  
13 initially various tasks including the integrity  
14 checks, racial profiling and biased based policing,  
15 EIS and promotion protocols among others.

16 In addition to that, Your Honor, the Court  
17 assigned us CIT data collection and analysis virtual  
18 training, and I know that today you assigned us an  
19 additional task. We have been working very actively  
20 with PRPB. And before giving you a quick summation of  
21 some our findings of some of our reports rather, I  
22 wanted to let you know that Captain Figueroa has been  
23 outstanding to work with. He has been a wonderful  
24 asset for the reform and has been very active and very  
25 proactive in the work that we have done with him, as

1 well as Mr. Garfer in the secretary's office.

2 So notwithstanding that, our observations are  
3 as follow: As you know, we're not monitors, we're  
4 simply here to enable and help PRPB to succeed in  
5 being able to achieve the level of maturity necessary  
6 to be able to graduate from the reform agreement.  
7 Let's use that word which very scholarly, right?

8 I will tell you, Your Honor, that what  
9 concerns me is that we heard repeatedly even today  
10 that they want to be out of this agreement in two more  
11 years. And although I congratulate them for having  
12 wonderful standards, I will tell you that the data  
13 component is simply lacking at this point. There are  
14 concerns that I have personally about the type of data  
15 that's being collected and more specifically the data  
16 that is missing and needs to be collected.

17 In addition to that, we are concerned about  
18 the fact that if the data is not being collected  
19 adequately PRPB will have no ability of being able to  
20 self-analyze and diagnose any issues that come up.  
21 And subsequently they will not be able to communicate  
22 that information to the Monitor's office.

23 As I said before, we are in a spirit of  
24 collaboration, everyone's working together, and I  
25 think that's commendable in this case. But I will



1 tell you that my concern continues as a matter of fact  
2 in the speed in which we get things done. We're  
3 simply not up to par with the goals that in two more  
4 years they wish to be in a situation where they would  
5 be in compliance with most, if not all, of the  
6 agreements as established in this case.

7 So I will ask the Court once again to  
8 continue to provide guidance to allow us to move  
9 quickly. I think that the disposition of Captain  
10 Figueroa, Mr. Garfer, the secretary's office is there,  
11 but we just simply need to get through the bureaucracy  
12 and get to roll up our sleeves and work. Right?

13 And I'll give you an example, Your Honor,  
14 before I finish. We're currently working on the  
15 racial profiling bias based policing piece and it's  
16 been a challenge to try to find out exactly what data  
17 is being collected in this pilot study that's actually  
18 in place right now. And I know Captain Figueroa has  
19 already facilitated a presentation by the vendor in  
20 the pilot study which we appreciate but to me, having  
21 had experience in working in another decree and, as  
22 you know, Your Honor, having had the ability of  
23 engaging and talking in the other cases across the  
24 United States vis-à-vis the conference that we hold  
25 once a year or once every couple of years at my

1 university, I find it incredibly challenging for us to  
2 be able to complete our assignments in due time in  
3 order to be able to help the police department achieve  
4 such ambitious goals. So I would ask the Court to  
5 continue helping us help them. And once again I  
6 congratulate the leadership and the attorneys of the  
7 Commonwealth for they have been a joy to work with and  
8 once again in a collaborative spirit. So thank you,  
9 Your Honor.

10 THE COURT: And Dr. Del Carmen let me also  
11 add that once sustainability has been reached the goal  
12 is a ten-year period there's still two years that that  
13 sustainability must be maintained in order for the  
14 agreement to terminate. That's also part of that  
15 because you might reach -- as you said, if all goals  
16 are reached but for the next year and I think this is  
17 something extremely familiar but I know Seattle was  
18 very close to sustainability and then during that  
19 period things went back to square one. So that's  
20 something that has to be really considered, am I  
21 correct?

22 SPECIAL MASTER DEL CARMEN: Yes, Your Honor,  
23 exactly. What is also important is that in order to  
24 be able to get to that point of compliance, to be able  
25 to go into the last two years of oversight, the police

1 department needs to be able to not crawl and not  
2 barely walk but run in this marathon. So what I mean  
3 by that is the data component needs to be solidified  
4 in such a way that they will be at this point  
5 perfecting the data collection as opposed to creating  
6 it.

7 So it is very, very important that -- and,  
8 again, we are willing and able and ready to help as we  
9 have and we continue to do so. We think that the team  
10 is in place right now in the Commonwealth through --  
11 to really put a fast pedal through this process, but I  
12 just think that we need to really have an honest and  
13 candid conversation about expectations versus reality.

14 THE COURT: Dr. Del Carmen an analogy to what  
15 you're saying in order to have full compliance in data  
16 collection is what Sulu would say to Captain Kirk,  
17 full warp speed ahead. I'm going warp two, warp 3,  
18 and warp 4, am I correct?

19 SPECIAL MASTER DEL CARMEN: Yes, Your Honor.  
20 I'm not as familiar with movies and TV programs as you  
21 are. I've been cautioned by my judge wife not to ever  
22 agree with the judge unless I know exactly what I'm  
23 agreeing to, but I will tell you, Your Honor, that  
24 from my perspective, yes, full speed ahead but with a  
25 clear vision of where we're headed and also with a

1 clear ship as to where we are and ensuring that the  
2 gas is filled up and that the mechanics are standing  
3 by in case it breaks down, Your Honor.

4 THE COURT: Thank you, Dr. Del Carmen. Let's  
5 hear now from John Romero, the Monitor, and you can  
6 stay where you are. You have a microphone there.  
7 Good afternoon.

8 MONITOR ROMERO: Good afternoon, Your Honor,  
9 and those present. If I may, Your Honor, I would like  
10 to provide a brief overview of the Monitor's fourth  
11 report as it relates to the six areas of the agreement  
12 which are being discussed today.

13 On July 21st of this year, the Office of the  
14 Monitor submitted to the Court our fourth compliance  
15 report. The report outlined the areas that PRPB has  
16 shown improvement and reached various levels of  
17 compliance in those areas where improvement was needed  
18 in order to be in compliance with the agreement. As  
19 stated during the August status conference, PRPB has  
20 made some measurable progress towards complying with  
21 those mandates of the agreement; however, reform  
22 efforts are lagging behind in some areas. To that  
23 end, the Monitor's office has been working closely  
24 with PRPB's reform unit.

25 Given that PRPB currently has not reached the

1 technology level where the majority of its data is  
2 digitized, PRPB has had to scan documents in order to  
3 meet the Monitor's office requests for data. We're  
4 clearly aware that this has presented a monumental  
5 challenge to the PRPB reform unit; however, Captain  
6 Figueroa and the bureau reform unit staff have  
7 continued to make every effort to provide us the data  
8 in a timely manner.

9 Your Honor, I must note the high level of  
10 cooperation between the parties and the willingness to  
11 work together with the Monitor's office. The Office  
12 of the Monitor greatly appreciates the efforts of the  
13 Special Master and U.S. DOJ who have worked closely  
14 with the Monitor's team and PRPB providing invaluable  
15 assistance.

16 If I may, Your Honor, I will now provide a  
17 brief synopsis by area as to PRPB's compliance model.

18 THE COURT: Okay, before you do that, let me  
19 go back. And I see that you are in full accord with  
20 the Special Master Dr. Del Carmen that all the 11  
21 areas are important but IT needs to be up-to-date; it  
22 has to be the most modern IT in order to move this  
23 along, am I correct? That's been something that's --

24 MONITOR ROMERO: That's correct.

25 THE COURT: -- slothfully keeping PRPB of not

1 complying faster, am I correct? Or at least you could  
2 be monitoring or making findings faster so PRPB can  
3 correct them, correct?

4 MONITOR ROMERO: Correct. The technology  
5 touches all 11 areas of the decree.

6 THE COURT: Okay, noted.

7 MONITOR ROMERO: In the area of  
8 professionalization, this area was not covered in our  
9 fourth report but will be addressed in our fifth  
10 report; however, we can note that we work with the  
11 Special Master, the parties in the development of the  
12 protocol. In going forward, we will be monitoring  
13 PRPB's development of the new protocols and its  
14 implementations.

15 As it relates to this protocol we cannot  
16 overemphasis the importance of this work and the  
17 valuable that an equitable and fair promotion will  
18 bring to the agency and at the same time put forth  
19 sustainable reform.

20 In the area of policy and procedures this  
21 area was also not addressed in our fourth report but  
22 will be assessed in the next report. Your Honor, the  
23 majority of work done in this area was accomplished  
24 during the capacity phase of the agreement. Now along  
25 with U.S. DOJ and the Special Master's office we are

1 continually reviewing and providing comments on  
2 various policies as they come up for review. We  
3 should also note PRPB's implementation of the virtual  
4 library and agency's progress in ensuring that agents  
5 in the field are having access and reviewed data and  
6 updated policies.

7 In the area of internal affairs, the  
8 Monitor's office noted that PRPB was substantially  
9 compliant in a number of areas within the section;  
10 however, the following was noted. Additional  
11 resources are needed within SARP; there are simply not  
12 enough investigators. It's our understanding that  
13 PRPB is working on this issue. The Monitor's office  
14 also identified that PRPB needs to revise its  
15 interviewing techniques allowing for more objective,  
16 open-ended questions.

17 We also offer the following recommendations:  
18 The retraining of all SARP criminal and administrative  
19 personnel with at least 16 hours of interview and  
20 training conducted by a recognized interviewing  
21 specialist. A change to the curriculum to allow for  
22 more focus on the practical art of interviewing and  
23 that each interview be recorded in its entirety.

24 In the area of search and seizure, in our  
25 fourth report PRPB generally received compliance

1 levels of partial. What contributes to those ratings?  
2 General orders, arrest and citations, and search and  
3 seizure lists all the PRPB forms required to be  
4 included. Yet, a review of the file provided by PRPB  
5 lacks many of the required PRPB forms.

6 Also, a lack of documentation establishing  
7 probable cause in the reports as well. Paragraph six  
8 of the agreement requires PRPB to develop an  
9 investigatory stop and search policy and assisted to  
10 collect data investigatory stop and searches whether  
11 or not they result in the arrest or issue of citation.  
12 At this moment that is not in place. It is my  
13 understanding that the Monitor's office and PRPB is  
14 also working to address this issue.

15 In the use of force PRPB generally receives  
16 compliance levels of partial. Some of the reasons  
17 relate to the following: For the period covered in  
18 the report, PRPB did not have a tracking mechanism to  
19 provide a valid use of force numbers both internally  
20 and externally; however, during the month of June  
21 through August of 2021 PRPB developed and implemented  
22 a pilot project where you replace all area command  
23 center modules replace this form with a new form where  
24 PRPB has the capacity to a dashboard to determine a  
25 number of incidents where force was used and by how



1 many officers. While this is a significant step, it's  
2 only the first step; nevertheless, the Monitor is  
3 encouraged by this development.

4 The investigation of serious use of force is  
5 conducted by PRPB's Force Investigation Unit, FIU.  
6 The FIU is outlined in general order 100-113 and it  
7 has 45 days to complete their investigations. What  
8 the Monitor found in reviewing these documents for the  
9 report is that in the majority of its investigations  
10 the FIU was not meeting this timeline although much of  
11 that delay was due to FIU not receiving the bulk of  
12 evidentiary material that it requested.

13 Another area of concern is the Commissioner's  
14 Force Review Board, CFRB. As per Bureau policy, all  
15 FIU investigations are evaluated by the CFRB which has  
16 30 days to complete the review. However, what the  
17 Monitor found was that almost all of the evaluations  
18 exceeded the 30 days.

19 PRPB's implementation of a Crisis  
20 Intervention Team, CIT, a pilot project in Arecibo are  
21 command was concluded in November of last year. The  
22 Bureau did not expand the program beyond the pilot  
23 project to any other are command during the period  
24 covered in our report; however, PRPB has begun the  
25 process of expanding the CIT program to all remaining

1 area commands. CIT coordinators have been selected  
2 and are in place in all are commands. PRPB is also in  
3 the process of identifying potential candidates for  
4 the position of CIT officer. PRPB efforts in advanced  
5 of this area will be addressed in subsequent reports.

6 In the area of equal protection this area in  
7 the fourth report was predominately noncompliant.  
8 While many of the policies have been developed, PRPB  
9 has not provided the curriculum and training materials  
10 in all areas within review. It has not demonstrated  
11 implementation in many of the paragraphs. However,  
12 PRPB has done a good job in delivery of virtual  
13 training and interaction with transgender and  
14 transsexual persons.

15 It should be recognized that despite the  
16 COVID-19 pandemic the training was still delivered.  
17 The Bureau's work on a 24-hour hotline should also be  
18 commended. The staff they have assigned are dedicated  
19 to their work. This will be noted in our fifth  
20 report, though additional resources are needed in this  
21 regard as it relates to staff and technology. PRPB  
22 must continue to develop its reporting process to  
23 ensure PRPB demonstrates its ability to respond to  
24 these types of cases in the most effective and  
25 professional manner.

1 Violence against your partner is a human  
2 rights violation. High-profile cases in Puerto Rico  
3 have heightened the attention of violence against  
4 women. Victims deserve a timely and adequate response  
5 pursuant to policies implemented. PRPB cannot stop  
6 sexual assault and domestic violence however PRPB has  
7 a significant role to prioritize addressing violence  
8 against women. The Monitor's office is reviewing  
9 cases filed of all sexual assaults and domestic  
10 violence investigations in our CMR-5 report.

11 To sum up, Your Honor, PRPB has made some  
12 progress with compliance with the agreement; however,  
13 more needs to be done. The Monitor's office is  
14 committed to working with PRPB to achieve that goal of  
15 full compliance. Thank you, Your Honor.

16 THE COURT: Thank you, Mr. Romero. Let me  
17 ask you one question. This report that's forthcoming,  
18 what period -- I assume that's from March of this year  
19 until like maybe June or July. What period does it  
20 cover?

21 MONITOR ROMERO: It's April through  
22 September. Now, which means a lot of what we're going  
23 to see in CMR-5 is what we saw in CMR-4. But we are  
24 going to note the progress that has been made.  
25 Specifically in that dashboard we talked about use of

1 force, that is a major step. And after the  
2 presentation which I received on Tuesday I did go down  
3 to FIU, and FIU was able to show me the procedure  
4 where it now as a result of the changeover from the  
5 PPR-84 to 126, that information now is being filtered  
6 to radio control which is a master communication unit  
7 and they are producing realtime numbers on use of  
8 force incidents again being fed from the 13 command  
9 areas. That is a good first step.

10 What PRPB has to make sure is that there is  
11 oversight of this because what you're seeing in the  
12 dashboard is the numbers but behind those numbers  
13 there has to be information. And what FIU was able to  
14 show me in a practical application was that in fact  
15 the use of force report, which is now digitized as of  
16 August 31st, all reports submitted will be digitized  
17 for a week now or a little more than a week. And that  
18 information is provided in with the 126 in that  
19 dashboard, you can now activate it on the internal  
20 side.

21 And 605, 602, which is a supplemental report,  
22 it's an additional information required, that can also  
23 can be viewed in that file, as well as 605-3 which is  
24 the reporting of the use of force as well. So this is  
25 a good first step. I expect we're going to see the

1 benefits of this specifically in CMR-6, Your Honor.

2 THE COURT: Yeah, because CMR-6 will cover a  
3 period from October until March of next year.

4 MONITOR ROMERO: Correct.

5 THE COURT: And basically this period for  
6 CMR-5 is where this administration has tackled all the  
7 problems and tried to fix everything that's not  
8 working but obviously the curve, the progress curve,  
9 it may not be as high and it is expected that for 6 it  
10 should start going up.

11 MONITOR ROMERO: Right. And if I could just  
12 add one more thing. When CIT -- after the pilot  
13 project in Arecibo, the intent of the PRPB was to kind  
14 of roll over the course in the next two years, roll  
15 out CIT in the remaining 12 years. I had a  
16 conversation with Captain Figueroa, who I can't say  
17 enough about him. He's doing a fantastic job here.  
18 And I said, You know what, the whole idea of having a  
19 pilot project is to see how it works, if it's  
20 effective work out the kinks while it's in play, and  
21 then expand that to the remaining areas. He along  
22 with the commissioner discussed the issue and came  
23 back and said, We're going to do that. That level of  
24 cooperation is very important because to spread this  
25 out over two years I think would not benefit either

1 PRPB or the people of the Commonwealth.

2 THE COURT: Okay, thank you, Mr. Romero.

3 Okay, now I'm going to hear -- this is the  
4 last part of the hearing, the status conference --  
5 first from U.S. DOJ and then I'm going to hear from  
6 the Commonwealth. I know the Commonwealth filed its  
7 memorandum at Docket 1830, and The United States at  
8 Docket 1837. So you need not rehash everything, it's  
9 for the record and I've read it.

10 I do want to note that there are two areas  
11 that I want from whatever you discuss or bring to the  
12 Court's attention to address. And, as I mentioned in  
13 the morning, one is the Terry Stop issue. As I  
14 mentioned, I was thinking, you know, maybe this is  
15 something that could be certified to the Puerto Rico  
16 Supreme Court but what we want is -- you know, what I  
17 would like is an answer, yes or no. But this is sort  
18 of -- I'm starting to think this is not litigation.  
19 There may be a possibility of a case is in controversy  
20 but I don't know if this is the sort of issue that  
21 should really be certified to the Supreme Court, I'd  
22 have to give it more thought, because U.S. DOJ  
23 probably wouldn't take the position on either way.

24 And, again, the parties may not be actively  
25 litigating this. So there would probably have to be a

1 more live case in controversy. Again, I'm not saying  
2 there isn't grounds to refer it. I know some state  
3 Supreme Courts can offer advisory opinions; the Puerto  
4 Rico Supreme Court, not really, but there may be more,  
5 there may be less. That is something that you might  
6 want to think about.

7 The other thing is, I don't know if the  
8 parties or the Commonwealth can stipulate whether  
9 they're going to use Terry Stops or not use Terry  
10 Stops, but the fact is that Terry Stops are being  
11 carried out, so if they are they have to meet federal  
12 parameters. And if they are they would also have to  
13 meet state parameters. Right now there are -- there's  
14 no prohibition, but that is something that they are in  
15 fact occurring.

16 Along those issues, I also want to hear from  
17 the parties regarding stops based on immigration  
18 status. And I want to say this is not something that  
19 may be happening every day but one isolated incident  
20 or a few isolated incidents should not be happening.  
21 And, for example, and this was reported in the media.  
22 On May 19th -- well, actually not May 19th. April 7th  
23 approximately 2021, there was an intervention in the  
24 southern part or the western part of Puerto Rico.  
25 There was a motor vehicle that was stopped for a

1 speeding violation. I think it was 15 miles more than  
2 the traffic limit and all the persons there were  
3 detained, they were arrested, and they were illegal  
4 immigrants. So that's the sort of thing that is sort  
5 of troubling. I'd like to hear from the parties and  
6 to see what can be done.

7 Again, Puerto Rico does not have authority to  
8 arrest, process, immigration offenses nor do the  
9 states; those are federal crimes and immigration is  
10 usually under the Federal Government's control. And I  
11 don't think for at least this incident, it's not an  
12 incident where there's task force agents or Puerto  
13 Rico Police working with border patrol or other  
14 federal agencies, so that is something that is  
15 concerning. And, again, this also happened to involve  
16 a Terry Stop. So I would like to hear about those two  
17 matters when you address the Court. So Mr. Saucedo,  
18 you have all the time you need.

19 MR. SAUCEDO: Yes, Your Honor. And we had  
20 planned to address the four areas that were assigned  
21 to the parties as part of their memoranda, but I do  
22 want to take up these two issues that the Court has  
23 laid out -- the Terry Stop issue and the  
24 immigration-based enforcement.

25 On Terry Stops, Your Honor, we do not believe



1     that certifying a question to the Supreme Court of  
2     Puerto Rico is necessary for PRPB to comply with the  
3     agreement. We had also identified instances where  
4     PRPB was detaining individuals short of probable  
5     cause. And the Monitor continues to find files and  
6     instances where that level of justification is not  
7     provided by officers in their reports. What the  
8     agreement requires is that if you're going to do them  
9     you must have a policy and you must train officers on  
10    how to conduct them. If you're not going to do them  
11    you still need a way of ensuring that they don't  
12    occur, you know, just like excessive use of force.  
13    PRPB prohibits the excessive use of force, but it has  
14    an accountability system to make sure that that does  
15    not happen.

16           So if PRPB is going to prohibit Terry Stops,  
17    and they have under policy, they need to establish a  
18    system, an accountability system, to ensure that that  
19    does not happen. They can't just say, Well, we've  
20    banded it under policy so we can all rest assured that  
21    they're not occurring. Well, PRPB needs a system, an  
22    accountability system, to be able to detect when they  
23    do occur and then to correct it when it happens.

24           Your Honor, so we don't believe that  
25    certifying a question is necessary at this point but

1 we do believe that PRPB should be establishing a  
2 system where they track every stop. That's a critical  
3 point here, Your Honor, is that -- and the Monitor has  
4 identified this in his reports. PRPB currently does  
5 not have a system where they document a stop unless  
6 there's an arrest. So if you stop someone and deprive  
7 them of their liberty and they're not free to go but  
8 you don't arrest them -- maybe you give them a  
9 citation, maybe you give them a warning -- unless it  
10 ends in an arrest, that stop isn't documented or  
11 tracked. And that's what's part of the problem.  
12 That's what needs to be done in order to ensure that  
13 PRPB policy prohibiting Terry Stops is actually  
14 carried out.

15 THE COURT: Thank you. And let me add, after  
16 the lunch break and I looked into this a little bit  
17 more, I'm in agreement at this time. This is  
18 something that really shouldn't be certified to the  
19 Supreme Court, but obviously PRPB obviously does need  
20 to have a system in place because it's not going to  
21 use Terry Stops. Officers need to know what a Terry  
22 Stops is and there has to be instructions, You can't  
23 Terry Stop. Or if you're going to Terry Stop then  
24 comply with federal law which is the minimum that  
25 needs to be complied with. Okay, move on. Thank you.

1 MR. SAUCEDO: Yes, Your Honor. On the  
2 immigration-based arrest we learned through the  
3 community that this arrest had taken place -- a driver  
4 who was allegedly speeding and had passengers who were  
5 noncitizens. And when we learned about this incident  
6 we asked for information in details and learned that  
7 the arrest reports themselves indicated that the  
8 arrest was for immigration reasons. These individuals  
9 were stopped, they were detained, arrested, kept in  
10 PRPB custody while they were transported to federal  
11 authorities.

12 Now, the question was why did that happen and  
13 under what authority did PRPB detain these  
14 individuals? But, second, the other problem we found  
15 was that every level of review every single supervisor  
16 signed off on it. They signed off on the arrest  
17 report saying that these individuals were arrested for  
18 immigration-related offenses. It went through a  
19 supervisor, a unit commander, and, not only that, PRPB  
20 issued a press release about it. So that obviously  
21 caught our attention and we asked PRPB how many other  
22 instances are there where these types of arrests  
23 occur.

24 Your Honor, you asked the Commonwealth to  
25 provide that data for this hearing and we did not see

1     it in any of the findings. I think it's important to  
2     know the extent of how often this occurs. Your Honor  
3     mentioned that maybe it's .05 percent. The reality is  
4     we don't know because PRPB does not track and document  
5     every time it stops someone. It needs to do that to  
6     be able to tell us which are lawful and within policy  
7     and which are not.

8             THE COURT: Okay, Mr. Saucedo.

9             MR. SAUCEDO: The problem is that PRPB is not  
10    tracking when they stop an individual and that's one  
11    of the things that needs to be done here. We have  
12    asked for information on this and we weren't even sure  
13    if we could talk about this particular incident  
14    because we don't know if PRPB has opened an  
15    investigation into it, and if it is obviously we don't  
16    want to get into details about it. But I know that  
17    Dominican consulate was interested in knowing more  
18    about these types of cases. I think it's important  
19    for the police bureau to be able to communicate  
20    clearly to the community when it's authorized to do  
21    immigration enforcement and when it is not.

22            Just in the last few weeks we've seen many  
23    news stories of FURA doing immigration seizures and  
24    arrests and that could be done through an agreement  
25    with federal authorities, but the community needs to

1 know that. They need to know when PRPB is authorized  
2 to take such action and when they are not. And what  
3 we're seeing are cases where PRPB is stopping and  
4 arresting individuals without anything else other than  
5 they were suspected of being here illegally.

6 THE COURT: And let me say something that  
7 does concern me --

8 MR. SAUCEDO: Your Honor.

9 THE COURT: This is something that PRPB needs  
10 to work on. Let's assume -- it appears that in the  
11 vehicle stop the passengers were all illegal aliens.  
12 They were not here illegally so they were removed from  
13 Puerto Rico, from the United States. But what if they  
14 had permanent residency or being U.S. citizens, U.S.  
15 naturalized citizens or second-generation Dominican  
16 born citizens here. They're legally here and they  
17 would have been stopped based on their nationality and  
18 targeted because of their nationality. And that is  
19 something -- the reason why the complaint was filed  
20 originally, that's one of the reasons. The Dominican  
21 community was constantly targeted, and that is  
22 something that the reform has pushed or moved to  
23 decreased that from happening.

24 And that's why the statistics are important  
25 if this is happening. Like I said, it could be .05,

1     it could be two or three instances and that was it and  
2     the police was going to take action, remedial action,  
3     but everybody needs to know the situation.

4             And, again, if people are violating and  
5     coming illegally federal authorities can definitely  
6     arrest them, remove them. If there are recurring  
7     violations or have felony records, they get prosecuted  
8     in federal court here. We see that all the time. But  
9     these are really federal matters so I just wanted to  
10    add that. Mr. Saucedo, continue.

11            MR. SAUCEDO: Yes, Your Honor. There's one  
12    other issue that's related here that we would like to  
13    work with PRPB on and I know that it's taking steps to  
14    address. And that's certifying when witnesses have a  
15    significant role in an ongoing criminal investigation  
16    so that they're eligible for special visas. I know  
17    that -- one of the things we're interested in looking  
18    at is whether PRPB has such a process so that when  
19    people do cooperate and they do help advance a  
20    criminal investigation that makes them eligible for a  
21    federal program that PRPB is in a position to be able  
22    to make that certification and provide that  
23    information. I know that Captain Figueroa and others  
24    at PRPB have been in touch with the consulates and  
25    with other members of the public, and it's something

1       that we do want to follow-up with and want to work on  
2       with everyone involved.

3               THE COURT:   Okay, thank you.   I know it's  
4       pretty hot and we've asked that it be made cooler  
5       here.   But if anybody's wearing a jacket and you want  
6       to remove it you have leave to do so.   Go on,  
7       Mr. Saucedo.

8               MR. SAUCEDO:   Your Honor, we're now going to  
9       go on to use of force and cover that area.   I don't  
10      know if you want us to pause here and have the  
11      Commonwealth address the Terry Stops and the  
12      immigration issues before we continue, Your Honor.

13              THE COURT:   Yes, let's do that.   These two  
14      issues let's address them and then we can go into the  
15      other topics.   So let me hear from the Commonwealth.

16              MR. PEÑAGARÍCANO:   Thank you, Your Honor.  
17      Before addressing those two issues in particular, I  
18      would like to briefly address the Court on the report  
19      from Mr. Romero, from the Monitor, of compliance and  
20      the comparison between March and the current scenario  
21      of the compliance process.

22              THE COURT:   Go ahead.

23              MR. PEÑAGARÍCANO:   Thank you.   In the report  
24      we filed -- as Your Honor mentioned we're not going to  
25      go in detail because it's in the record -- what we

1 wanted to show there was what was the status of the  
2 reform process in March when that CMR-4 was filed and  
3 what is the reality today.

4 THE COURT: And that is perfectly clear from  
5 the report because it says when the report was filed  
6 and August 2021 and it shows affirmative steps or  
7 plans to move ahead, so that's why I mentioned CMR-5  
8 should be more cohesive and favorable to the  
9 Commonwealth. CMR-6 really will be proving if it's  
10 been meeting these expectations.

11 MR. PEÑAGARÍCANO: And that was the point,  
12 Your Honor, because it's progressive. The data  
13 management that the Special Master mentioned, that the  
14 Monitor mentioned, that the Court mentioned, that's  
15 going into contract now and that's where it's going to  
16 show next year the real results and benefits of that.  
17 Regarding compliance, we're going to see that next  
18 year.

19 THE COURT: And I'm perfectly clear on that.  
20 The fact that CMR-5 the improvement may not be so  
21 sharp is not reflective on PRPB not doing what it has  
22 to do. It's something that will probably show in the  
23 sixth report, seventh report. And from there on it  
24 should be on a positive slope if things continue to be  
25 in the collaboration as everybody's been talking



1 about. So I'm aware of that. So regarding the  
2 immigration and the Terry Stop now.

3 MR. PEÑAGARÍCANO: Well, on the Terry Stops,  
4 Your Honor, frankly after listening to the different  
5 presentations and this morning's discussion we don't  
6 have much to say other than we had been focusing on  
7 discussing with plaintiff, with the USA Mr. Saucedo, a  
8 way to amend the agreement to reflect the current  
9 legal scenario in Puerto Rico. But after further  
10 discussion probably, as Mr. Saucedo pointed in his  
11 report, what's important regarding the Terry Stops is  
12 that regardless of whether they're going to be  
13 prohibited or not is that they occur. And the  
14 important thing is what to do to avoid that they  
15 occur, and if they occur how to track it.

16 So we received a report a few days ago and  
17 that is certainly something that internally in the  
18 reform process we're going to take a look at and  
19 deliberate as to those specific comments that were  
20 made in that report and then come back to the DOJ with  
21 our specific comments about it.

22 THE COURT: And let me say this, the other  
23 thing that can be done -- and I think the important  
24 thing is establishing a rule and moving forward and  
25 the police enforcing. What I'm saying is the police

1 understands that Terry Stops should not be taking  
2 place but they take place. If the police need an  
3 order from the Court to comply with the reform, you  
4 can request -- it's a purely voluntary matter but if  
5 it's happened in this case also in the mental health  
6 case, consent decree, that the government, the local  
7 government, has gone beyond its obligations and asked  
8 the Court, can you approve this and we consent to X,  
9 Y, Z and then it becomes part and there's an order  
10 enforcing that.

11 So, again, it is up to the Commonwealth. I  
12 am not going to certify it. I'm convinced more now by  
13 what Mr. Saucedo stated and I think it would be kind  
14 of ridiculous to put both parties when I think  
15 everybody's almost -- you're seeing eye to eye on this  
16 matter. So what I would ask is let me know let's say  
17 by October 1st if it's Monday. I don't know if that's  
18 a Monday or a weekday, but let me know -- regarding  
19 the Terry Stops, I'd like to get a joint motion by the  
20 1st workday of October. It's a Friday. So I will get  
21 a joint motion by October 1st.

22 If you need to discuss that beyond  
23 October 1st that is fine, but hopefully you might have  
24 a good working plan or solution moving forward. Okay,  
25 now as to the immigration matter.

1 MR. PEÑAGARÍCANO: As to the immigration  
2 matter and the specific incident that has been  
3 discussed, Your Honor, on I think April 7th it was,  
4 the Monitor opened an investigation and sent us at  
5 least a couple of document requests regarding that  
6 incident. We complied with both. We sent them  
7 everything we had on that instance. And those  
8 incidents do occur, Your Honor. That incident where  
9 the immigration detection occurred, that is a very  
10 particular one.

11 That is a very particular one because it was  
12 a speeding situation. The agent didn't ask anything  
13 about nationalities or immigration status. The driver  
14 or the person next to the driver volunteered, Hey, I'm  
15 just carrying these. These guys just came from the  
16 Dominican Republic, they're here illegally and we're  
17 taking them here. That's the way the situation  
18 evolved. Rather than focusing on that and certainly  
19 as the Monitor pointed out and Mr. Saucedo that the  
20 way it was documented it has challenges and there's no  
21 question about it.

22 What the reform process did as a result of  
23 that is focus on restructuring the entire general  
24 order that covers that type of detentions which is  
25 600-626. So there's a new general order which is in

1 the internal process of final revisions internally to  
2 be distributed through the paragraph 229. And we hope  
3 with the new changes a lot of the situations that  
4 occurred in that incident that we've been discussing  
5 will be avoided.

6 THE COURT: So I think also the parties can  
7 report -- you might not be done by October 1st but at  
8 least we can keep a tally or follow-up, but in that  
9 same other motion regarding Terry update me. And,  
10 again, if we have the 225 meeting and that's been  
11 discussed and resolved that would be fine. But I  
12 think it's dispositive that what the Commonwealth is  
13 doing is taking measures so that this not happen again  
14 regardless of whether it happened one way or another.  
15 But, again, we have a reform agreement so, you know,  
16 it's important to take into consideration what PRPB  
17 can do and in particular when it comes to immigration  
18 issues.

19 So let's go back to Mr. Saucedo so you can  
20 address the other matters. I read your response at  
21 1837 docket number. It's excellent and I think it  
22 provides everything so go to the nitty-gritty.

23 MR. SAUCEDO: Yes, Your Honor. And just  
24 really briefly I do want to thank the Commonwealth for  
25 taking the approach and Mr. Peñagaricano and his

1 remarks right now. I think that it's important that  
2 we continue to problem solve. We're not going to  
3 agree on everything. And I think we are restrained  
4 when there are policy issues that PRPB and the  
5 Commonwealth need to decide which direction they're  
6 going, but then there are other firm lines where the  
7 federal courts have set them. And I think we, as  
8 problems arise, need to be honest about what happens  
9 and how we fix them. And so I appreciate what  
10 Mr. Peñagaricano just said and look forward to working  
11 with him on that joint motion for the Court.

12 We wanted to turn to the use of force issue  
13 and specifically on use of force data. The police  
14 bureau has consistently provided inaccurate data to  
15 the Monitor and there are repercussions of that  
16 downstream in the monitoring process. If the Monitor  
17 does not get an accurate number of use of force, he  
18 cannot draw a representative sample that's required by  
19 the monitoring methodology when he's looking at other  
20 things like force investigations or the force review  
21 board work.

22 Now, the PRPB told us this morning that they  
23 are using a use of force module. I think the problem  
24 that we see is that these systems need not just IT  
25 personnel working on them but they need executive

1 oversight. They need an executive sponsor who is  
2 going to carry them out, get the IT bureau the  
3 resources it needs to get these things done. And I  
4 think what we've been asking for and I know the  
5 Monitor's also asked, and I know that PRPB is working  
6 on it, is that they identify the executive sponsor for  
7 each IT system and a project manager that's going to  
8 be handling all the different pieces to keep things  
9 moving.

10 PRPB was able to do this very successfully  
11 with its contractor on the staffing study. They had a  
12 clear plan of where they were going in creating a  
13 staffing study and a plan and every month they would  
14 give us an update about how they were moving along.  
15 The IT bureau can develop a system but it's not going  
16 to change people's behavior. Right?

17 I think the KRONOS issue is instructive here,  
18 right, the timekeeping system. It's taken years to  
19 put in place. And that was not just put a clock on a  
20 wall and let people stamp it, right, it really was  
21 about changing people's behavior and having them use  
22 it, having the system be reliable. There's an IT  
23 component to it but there's also a supervision and  
24 management piece of it, and that's what I think the  
25 use of force data part here needs. And one thing we

1 want to work on with PRPB is to identify those  
2 executive sponsors and those project managers who are  
3 going to be carrying out each of the IT systems  
4 including the use of force module.

5 Your Honor, the second issue is when we asked  
6 Colonel Colón this morning and that is that we noticed  
7 that PRPB consistently notified the public when an  
8 officer used deadly force and discharged his or her  
9 weapon. It was brought to our attention by members of  
10 the community that those press releases have not been  
11 issued all year. And what we wanted to find out from  
12 the Commonwealth, I don't know if there's a response  
13 available, but whether that practice was suspended for  
14 some reason and if so whether it will resume. I think  
15 it's important for the public to know when an officer  
16 believes that he's authorized to take another life or  
17 to stop a threat that might jeopardize someone's life.  
18 And so those notices are very important.

19 THE COURT: And let me say, Mr. Saucedo --

20 MR. SAUCEDO: And finally, Your Honor --

21 THE COURT: That last point you made, and  
22 I've heard you say it many times, but it does go I  
23 believe to transparency. There may be times  
24 unfortunately when an officer has to take away a human  
25 life to preserve human lives, but if it's not

1 documented properly and informed the public out there  
2 is going to think the officer just killed somebody out  
3 of for no reason and that's why it's so important.

4 Correct?

5 MR. SAUCEDO: Yes, Your Honor. These could  
6 be very volatile incidents. They are of high public  
7 interest and it's important for PRPB to be able to  
8 share information it can as soon as it can. And of  
9 course to preserve the integrity of the investigation  
10 but to balance that with the interest of the public to  
11 know when an officer uses deadly force.

12 THE COURT: Okay, thank you. The third  
13 point.

14 MR. SAUCEDO: Finally, the third point was  
15 about the need for investigator training on force  
16 investigations. Colonel Colón told us that the force  
17 investigators have gotten the same training that all  
18 other officers have received on use of force, but what  
19 the agreement requires is that force investigators  
20 receive specialized training in being able to detect  
21 among their peers excessive use of force or policy  
22 violations. Many of our consent decrees around the  
23 country require specialized units to investigate  
24 serious uses of force and PRPB does not have to  
25 reinvent the wheel here.



1           New Orleans has a force investigation unit,  
2       Seattle, Miami, there are other departments that have  
3       them. And we encourage PRPB to look at those other  
4       cases and be able to adopt them, to be able to provide  
5       this training as quickly soon as possible. This is  
6       very important. The Monitor has detected questionable  
7       cases in each of his reports and we can't treat each  
8       new report as just a new set of cases. We can't  
9       forget about those the Monitor has already reported.  
10      So we have asked as part of our filing this week,  
11      we've asked that the Monitor follow-up on those cases  
12      that he has identified as being problematic so that we  
13      can find out what ended up happening -- was an officer  
14      disciplined? Was the officer exonerated? So those  
15      sorts of details are really important going forward.

16           THE COURT: Okay, thank you. And you  
17      mentioned New Orleans, Seattle, but I really urge the  
18      Commonwealth police and the commissioner and anybody  
19      else, the attorneys, to visit New Orleans. That  
20      agreement is -- it's about a year -- it was filed a  
21      year before this agreement, but that case is almost  
22      wrapping up or close to wrapping up. I know Dr. Del  
23      Carmen knows everybody there, I've met almost  
24      everybody there including the judge. But going to New  
25      Orleans it's a smaller department but it had many or

1 similar issues as here and they've been resolved over  
2 the monitoring period. So I would urge -- if the  
3 Commonwealth can arrange for that and the Monitor here  
4 will help, he's got the contacts, but you should  
5 really go out there. And that's going to illuminate  
6 you and help you self-assess.

7 Continue, Mr. Saucedo, next point.

8 MR. SAUCEDO: Yes, Your Honor. Mr. Castillo  
9 was going to take on the next section on searches and  
10 seizures, but I did want to point or address the issue  
11 about a two-year sustainability period. We've heard  
12 today the need to -- you know, that hate crime  
13 statistics still need to get collected, that there's a  
14 lot of work restructuring gender-based violence units  
15 that do those investigations. We're talking about  
16 seeing the impact of work that's taking place now in  
17 the fifth evaluation period, seeing the impact of that  
18 in the sixth report.

19 The sixth report covers 2022, right? So the  
20 agreement requires once the Commonwealth reaches  
21 substantial compliance with the agreement, that then  
22 starts a two-year clock for sustained compliance. So  
23 what that means is if PRPB wants to be out of this  
24 agreement completely by 2023, it would have to come  
25 into compliance with every area of the agreement this

1 year, you know, in the next three months. I think  
2 what we've talked about here is the need for  
3 additional implementation and oversight to achieve  
4 results. So I think, Your Honor, you know, we  
5 appreciate the Commonwealth's good faith, their  
6 motivation and their drive to get this done and we  
7 don't want to slow any of that down and we're partners  
8 in trying to get the agreement implemented. I think  
9 perhaps a more realistic goal is to get the entire  
10 case within a substantial compliance within that  
11 period of 2023. Right?

12 You know, the CIT units they're scheduled to  
13 become active in all 13 areas in a year which takes us  
14 into 2022. So I think -- we appreciate I think the  
15 drive and the motivation, we certainly want to  
16 encourage that, but I think that's sustainability  
17 period is really a test for PRPB to demonstrate that  
18 the systems and reforms have taken hold and they're  
19 not going to go away once this case disappears.

20 THE COURT: And regarding that, Mr. Saucedo,  
21 let me say I've always been under the impression --  
22 and I'll hear from the Commonwealth when it's its  
23 turn, but I was always under the impression that the  
24 Commonwealth was targeting 2023, which I think would  
25 be July or August. That would be the 10th anniversary

1 of when the agreement was actually signed to meet that  
2 four-year capacity building period plus six years of  
3 monitoring to have sustainability.

4 And 2023, I mean 24, and 25 would be the  
5 two-year sustainability period after, you know,  
6 reaching sustainability in 2023 but we'll hear from  
7 the Commonwealth. But that to me is more realistic  
8 even though the Commonwealth would have to move in  
9 warp speed. If the IT is there and all the measures  
10 and policies and we have the monitoring and the  
11 Special Master helping -- as Dr. Del Carmen also noted  
12 it is very aggressive and I would very much love to  
13 see in 2023 sustainability to say, okay, count two  
14 years from now and make sure that this is all set and  
15 that would be the end, but we all have to be  
16 realistic. But I think what the Commonwealth is  
17 saying is that it can reach sustainability by 2023  
18 then there's that two-year period that will follow  
19 sustainability. So Mr. Castillo, your area, search  
20 and seizure.

21 MR. CASTILLO: Thank you, Your Honor. So  
22 search and seizure I'm just going to focus on two  
23 areas. We've already discussed a bit in this  
24 morning's session the failure to search -- finding  
25 evidence or make arrests as a result of search

1 warrants, and the Monitor found that one out of three  
2 search warrants resulted in no seizure of evidence or  
3 arrest. In its filings the Commonwealth looked and  
4 attributed that to some facts about, you know, whether  
5 they were -- the nature of the searches or focused on  
6 consent searches which is a different pool of  
7 evidence. But today it brought a more open approach  
8 to looking at these details which are important.

9           So we want to highlight this issue. It's an  
10 issue of PRPB's obligation to collect data including  
11 tracking and search warrants and to analyze it so that  
12 it can then make informed decisions. And these are  
13 the decisions about what training is needed, what  
14 tactical adjustments might be needed or whether or not  
15 things are working well and whether we should be  
16 staying the course. So we agree with the Court and  
17 disagree with what the Commonwealth said in its filing  
18 that the success or failures of its policing efforts  
19 are beyond its control. Rather, we agree with what  
20 was said today which is that these search results are  
21 a data point that can be and should be considered in  
22 its practices.

23           One of the issues that is a stumbling block  
24 in getting there is that PRPB still has not met  
25 several of the requirements in the agreement that will

1 offer it that control and the ability to make these  
2 more successful analyses. Specifically, the  
3 Commonwealth did not get tracking search warrants as  
4 it's required to do under paragraph 76. It is not  
5 evaluating its programs including police operations  
6 for bias as required under paragraph 91. And there's  
7 also a requirement under paragraph 154 about integrity  
8 checks including confirming that there's no  
9 misconduct, no corruption in the execution of its  
10 search warrants.

11 So PRPB can be looking at this data once it's  
12 able and it has the capacity to do that, to be looking  
13 for outliers in officers or in unit and making sure  
14 that the searches across the agency are going to be  
15 more successful in adjusting to failures.

16 So as the Monitor pointed out in its fourth  
17 report, it is incumbent on the Commonwealth to  
18 recognize that it has outliers and it is an outlier in  
19 terms of the failure rates for its search warrants,  
20 and it must provide a data-driven response to that  
21 fact. So we look forward to continue to work with the  
22 Commonwealth and the Monitor's continued evaluation as  
23 it builds capacity to collect and analyze the data and  
24 to make those operational decisions based on that  
25 data.

1 THE COURT: Okay, thank you.

2 MR. CASTILLO: Turning to another observation  
3 from the Monitor's office in the fourth report it  
4 included that there were repeated supervisory  
5 deficiencies in the arrest and search files and that  
6 included the regular failure to include all the  
7 documents that were required by policy and there was  
8 regular use of canned or copy-and-pasted language,  
9 conclusory statements. Those are all issues that were  
10 identified by the Monitor as existing in its sample.

11 Supervisors have an obligation to provide  
12 more than a rubber stamp or even a cursory review. It  
13 is -- they're the first line to ensure that all the  
14 necessary documentation is there, that there are  
15 sufficient descriptions of facts that are needed to  
16 support the actions by its officers. And when that  
17 information is missing it's those supervisors that  
18 have an obligation to demand that those mistakes be  
19 fixed and to think about and assess the fit of the  
20 officers doing these things or the training needs or  
21 what supports are needed to get people on track.

22 The Commonwealth hasn't contested these  
23 deficiencies, to its credit it recognizes that there's  
24 room for growth. So now the job is to do a thorough  
25 assessment of why these problems are occurring so that

1 the appropriate corrective actions can take place, and  
2 these assessments should be documented and shared with  
3 the Monitor. The Monitor and the Department of  
4 Justice want to see that self-analysis and that  
5 self-reflection and may even be able to provide  
6 technical assistance? And then when solutions and  
7 corrective measures are decided upon, accountability  
8 to see that those corrective measures are timely and  
9 effectively brought through. So we hope to see that  
10 going forward and working together with the  
11 Commonwealth and the Monitor on this.

12 THE COURT: Okay, thank you. Anything else?

13 MR. CASTILLO: I have some points on equal  
14 protection as well.

15 THE COURT: Okay, go ahead.

16 MR. CASTILLO: Okay, sorry. First, there was  
17 some discussion on the filings on NIBRS. And for  
18 those who don't know, NIBRS is -- the obligation comes  
19 from the agreement for Puerto Rico to collect and  
20 report crime data using NIBRS. The NIBRS system is a  
21 richer data set than what existed before and it allows  
22 for a greater depth of analysis. And it is that  
23 analysis the PRPB can then use to make its operation  
24 on resources decisions. You might be able to -- you  
25 might be detecting a theme here.



1           And so we have shared with Puerto Rico an  
2       example of the sort of quality analysis that is  
3       possible in the context of sex crimes and that example  
4       showed how you can break down data of sex crimes by  
5       the demographics of victims or perpetrators, the  
6       geographic locations or the relationships between  
7       victims and perpetrators, and other -- even comparing  
8       the rates of arrests or prosecutions in one set of  
9       investigations versus another. And this sort of data  
10      can help Puerto Rico's leadership, and even the  
11      investigative units themselves, figure out how to best  
12      allocate resources and approach these crimes.

13           The problem is that NIBRS' implementation has  
14      stalled. And I won't repeat what's in our filings  
15      about the history of that, but we just urge the  
16      Monitor to remain vigilant on this issue, and we look  
17      forward to its recommendations on the steps that  
18      Puerto Rico must take to actually move forward and  
19      implement NIBRS once and for all.

20           Regarding hate crimes, it was very helpful  
21      this morning to hear from the Puerto Rico Department  
22      of Justice about their work in identifying and  
23      prosecuting hate crimes. But apart from the review of  
24      policies, we still need to learn more from the  
25      Commonwealth about what its doing to properly identify

1 and investigate hate crimes because we know -- we all  
2 agree that they are a key player in this area and we  
3 know that PRPB is responding to at least some of the  
4 violent crimes that are happening in the LGBTQ  
5 community and Puerto Rico is also responding to many  
6 crimes of gender violence that might potentially  
7 qualify as hate crimes, so we urge the Monitor to  
8 continue to evaluate this, this progress, and  
9 including raising examples of individual cases so that  
10 we can use those to see necessary steps to move  
11 forward.

12 In addition to that, the Monitor should also  
13 be reviewing Puerto Rico's strategic engagement of  
14 community stakeholders in this area because this is an  
15 area where these stakeholders can provide the  
16 Commonwealth critical feedback on their performance,  
17 as well as opening lines of communication to help and  
18 manage these types of investigations. And this would  
19 be in accordance with some of the obligations that are  
20 in the community engagement section of the agreement.

21 On the issue of gender violence, again this  
22 is -- it was very helpful to hear from the Department  
23 of Justice this morning on their work in domestic  
24 violence and sex crimes both from its filing and the  
25 testimony. Also, I want to recognize that Puerto Rico

1 has identified several changes to its structures,  
2 protocols, and the reasserted its commitment to  
3 tackling gender violence. We agree that this is an  
4 important area that warrants an influx of resources,  
5 victims services, interagency collaboration, constant  
6 engagement of stakeholders. And in its -- the  
7 forthcoming monitoring report that is where the  
8 Commonwealth -- rather the Monitor is going to do a  
9 real comprehensive review of police department's  
10 efforts in this area. So we look forward to that  
11 report and working with the Monitor and the  
12 Commonwealth to deal with the findings.

13 And I guess I just want to add on that part.  
14 We are trying to contribute to those efforts moving  
15 forward by -- we have done a review of relevant  
16 policies, trainings, and investigations with the  
17 assistance of the Special Master -- not the Special  
18 Master, excuse me, some subject matter experts and  
19 we'll be sharing those efforts with the Commonwealth  
20 in order to keep this moving forward as well. So  
21 that's it on equal protection.

22 Briefly, and I'm sorry for taking up all this  
23 time, on the civilian complaints, and criminal  
24 investigations and discipline, I just really want to  
25 focus on two issues. One of the issues that was not

1 fully addressed in the last status conference -- and  
2 we talked about some of the issues about resources and  
3 interviews the last time.

4 The Monitor made some specific findings with  
5 respect to certain whistleblower complaints. The  
6 Commonwealth has committed to reviewing its  
7 investigator manual to see what needs to be done  
8 there, but the Monitor's concerns run deeper than  
9 that. It touches on the quality of the interviews,  
10 the supervision. And so it may not be just a policy  
11 fix; it may be on training and improvements on the  
12 supervisory review. So not only will the Monitor need  
13 to follow-up with how the Commonwealth and SARP maybe  
14 specifically responds to the individual problems that  
15 it identified but also how SARP responds to the  
16 failure to capture those problems themselves.

17 The issue is not just that there were some  
18 deficiencies in investigations but it's that those  
19 investigations were getting through the entire SARP  
20 review process with various levels of review and so we  
21 need to all work to improve that. You know, I think I  
22 can end there, Your Honor. Thank you.

23 THE COURT: Okay, thank you Mr. Castillo and  
24 Mr. Saucedo. We'll now hear from the Commonwealth and  
25 Mr. Peñagaricano or Mr. Barreto whoever wants to

1 address these issues or any other issues. What I  
2 would like to hear first, however, would be -- because  
3 again I've always been under the impression that the  
4 Commonwealth is looking to be in substantial  
5 compliance by 2023 and then there's the two-year  
6 sustainability period. But if I'm incorrect in that  
7 analysis, I'd like to hear what the Commonwealth's  
8 position is as to when it's planning on being in  
9 sustainability because, as Mr. Saucedo said, if it's  
10 2021 there's still a lot of work to do; 2023 with full  
11 warp speed ahead it may be possible. So let me hear  
12 then go to the other areas and anything else you may  
13 want to say. And I have reviewed the Commonwealth's  
14 document at Docket 1830 as well. Go ahead.

15 MR. PEÑAGARÍCANO: Thank you, Your Honor.  
16 Let me address first the observation on the timing and  
17 the substantial compliance which is what the Court  
18 want to hear first and then I'm going to let  
19 Mr. Barreto address some of the other matters.

20 This has been the object of many, many, many  
21 conversations with everyone in the reform process  
22 about what the agreement says about compliance, the  
23 timing, and the substantial compliance and the timing.  
24 The Commonwealth is crystal clear about what the  
25 agreement states. There is no hesitancy, no doubt.

1 Everyone is clear what it says.

2 But very respectfully, Your Honor, whenever a  
3 member of the Commonwealth states like a good-faith  
4 goal, like a positive mentality about a year that they  
5 wish for compliance then it's like, respectfully, it's  
6 like everybody panics. And then everybody goes again  
7 expectations versus reality and that's not real, you  
8 need two more years for -- it's fine. Respectfully,  
9 we know. The Commonwealth knows what the agreement  
10 states. And that's all we have to say. Very  
11 respectfully, Your Honor.

12 THE COURT: So then let's hear from  
13 Mr. Barreto as to any comments as to what Mr. Saucedo  
14 or Castillo have said or anything else you want to  
15 bring to the Court's attention.

16 MR. BARRETO-SOLÁ: Well, Your Honor, I have  
17 to tell you that I think Mr. Castillo, as well as  
18 Mr. Saucedo have mentioned in the different aspects of  
19 their themes there is a common denominator and we  
20 could even call it a magic wand which is I think,  
21 correct me if I'm wrong, what they're identifying is  
22 the lack of tools of the Puerto Rico Police Department  
23 to properly codify and organize the data in order  
24 to -- not only to provide the data to the Monitor and  
25 to the U.S. DOJ but also to be able to use the data to

1 correct any defects that they could actually see once  
2 the data is analyzed.

3 When we look at specifically the search and  
4 warrants and the percentages of negative warrants,  
5 Your Honor, you were absolutely correct that maybe the  
6 data needs to be organized and we can actually use the  
7 data to see where, if anywhere, we're failing in terms  
8 of getting more positive results out of the warrants  
9 that are being issued. I think that that transports  
10 itself to pretty much every other concern that has  
11 been mentioned by the U.S. DOJ about the data, about  
12 the Monitor not being able to analyze everything  
13 because of the lack of the data, and maybe not even  
14 the lack of the data but the lack of the availability  
15 to analyze the data.

16 The Monitor well said this morning that the  
17 police department is going through a very painstaking  
18 process of many times having to use tools to transport  
19 physical documents to data that can be analyzed. It  
20 was touched this morning but we want to make it very  
21 clear to the Court that there has been an agreement  
22 reached with Ben Horwitz regarding the IT. We're  
23 looking forward for that system to be in place as soon  
24 as possible. That obviously is going to mean that  
25 programs are going to be developed and we're going to

1     need the personnel to enter the data into that system.  
2     We're going to use the input from the Monitor, the  
3     DOJ, to be able to produce the data that they are  
4     seeking and to organize the data that will help  
5     everybody.

6             And we cannot lose the fact that we're not  
7     helping the Monitor, with all due respect, we're not  
8     helping the Special Master, we're not helping the  
9     Court. We're helping the police department to be a  
10    better police department so that the police department  
11    can actually serve the community that it needs to  
12    serve. Many times what I hear from Mr. Saucedo and  
13    Mr. Castillo is not that necessarily the police  
14    department or their agents are doing something wrong  
15    but that they're not getting the data that they need  
16    to get in order to be able to analyze it if the  
17    process that is being followed was correct or was not  
18    correct.

19            We've spoken many, many times about the  
20    specific incident where some illegal immigrants were  
21    detained. We've sat together, Attorney Peñagaricano  
22    and myself, with members of the police department and  
23    when we look at exactly what happened that day what we  
24    have come up and analyzed was that the documentation  
25    following that detention was not properly completed.



1 It was not the detention; this was not a detention  
2 that was directed at illegal immigrants. It was a  
3 stop because somebody was speeding there was  
4 information that came up from the people themselves  
5 that were stopped. And what I'm saying, Mr. Romero is  
6 absolutely right. If you would have completed the  
7 record the way that it should have been completed we  
8 wouldn't be in this position analyzing that specific  
9 document.

10 So I think that the Court should be aware  
11 that a major step is being taken and that that major  
12 step is that that information will be duly organized.  
13 We're going to have to retrain the agents in order for  
14 the agents to be able to input the information into  
15 the system, and once that system is in place the  
16 information will flow freely.

17 One last thing I wanted to also mention.  
18 This is very painstaking. This person right next to  
19 me works 24/7 on the reform. We want to see light at  
20 the end of the tunnel. And even though sometimes all  
21 of the parties are saying you're getting the system in  
22 the right direction, we see a little bit of light but  
23 then that gets shut down because they say, you know,  
24 you're getting there but you're very far from getting  
25 there.

1           One analysis that we need to make, and today  
2           is probably not the day to discuss this, is the  
3           compliance could be divided in two stages. Maybe we  
4           do not need to comply with all 11 sections at the same  
5           time but once one section is deemed to be compliant,  
6           substantially compliant, the years start running from  
7           there because hopefully we see light at the end of the  
8           tunnel. I am certain that if I sit down with  
9           Mr. Romero and I explain this to him we will reach an  
10          agreement and this is something that we'll be seeking  
11          at a later date. Thank you, Your Honor.

12           THE COURT: Anything else? I'll go around  
13          first from DOJ, I'll hear from the Monitor, and  
14          Special Master if they have any brief matters. Not  
15          rehash anything but any brief comment you want to make  
16          for the record this is the opportunity. And I'll give  
17          the Commonwealth a final say at the end. Mr. Saucedo  
18          or Mr. Castillo?

19           MR. SAUCEDO: Yes, Your Honor. I think the  
20          data systems certainly are important because they tell  
21          us if things are working or not, but this is no longer  
22          sort of implementing the agreement. Right? Most of  
23          the agreement is reflected in PRPB policy. And so  
24          this is now PRPB taking ownership of the process and  
25          making sure that its own policies are being

1 implemented. So I think that it's easier for PRPB to  
2 move forward with that in mind, that these are all  
3 things that are now its responsibility, its  
4 requirements. And I think they're -- they have a lot  
5 of people who want to see this reform process succeed  
6 and those all become allies for them and they should  
7 draw from them. It's people within the police bureau,  
8 it's your new cadets coming in who haven't seen any  
9 other ways of doing it but under the reform. Those  
10 become your change agents and your allies in changing.

11 We have nothing further, Your Honor. There's  
12 a lot of work to be done here and we appreciate you  
13 holding these hearings.

14 THE COURT: Okay, thank you. Let me hear  
15 from the Special Master Dr. Del Carmen. Anything you  
16 want to say in closing?

17 SPECIAL MASTER DEL CARMEN: Yes, Your Honor.  
18 First of all, thank you again for allowing us to be  
19 part of it and we apologize once again not being able  
20 to be there in person. I wanted to just reiterate  
21 very quickly that I don't think anyone on our team is  
22 panicking or anxious about any kind of timelines in  
23 which we're in. I think all of us are eager to see  
24 Puerto Rico succeed and succeed with distinction, that  
25 it becomes the model for other police departments to

1 follow.

2 I think to our point, policies are only good,  
3 Your Honor, if they're actually enforced. Policies  
4 are only good if they're actually -- if there's  
5 actually accountability. Data is only good if it's  
6 actually analyzed. So to produce data and to have  
7 policies in place is the first step of many other  
8 steps that need to be taken, and one of the things  
9 we've seen in the current DOJ from the past three or  
10 four months is that lack of accountability gets a DOJ  
11 investigation in place. Lack of policy implementation  
12 gets the DOJ interested in looking at patterns and  
13 practices.

14 So from our perspective we stand ready to  
15 continue to help. We are eager to get this process  
16 underway and finalized. And we also commend PRPB and  
17 the Commonwealth. And I agree with the Commonwealth's  
18 counsel that the Captain Figueroa is a 24/7 operation.  
19 We wish there would be other individuals like him  
20 around, and we are convinced that through that kind of  
21 leadership and that kind of energy we will get through  
22 this and we're ready to assist. Thanks again, Your  
23 Honor.

24 THE COURT: Mr. Romero, the Monitor.

25 MONITOR ROMERO: Your Honor, I agree with

1 U.S. DOJ that what we're looking at here is  
2 implementation and of course the ability to produce  
3 verifiable data. I also agree on the assessment of  
4 Captain Figueroa. What we want to see is that in  
5 other individuals because one individual can't do this  
6 alone. And that type of involvement, that type of  
7 commitment we'd like to see that throughout the  
8 agency. And I think there are people out there and I  
9 think it needs to spread out more. Captain Figueroa  
10 is a good example of someone who, once he makes a  
11 commitment, is following through. And that's what we  
12 need in this scenario. Thank you, Your Honor.

13 THE COURT: Okay, thank you.

14 Mr. Peñagaricano or Mr. Barreto, any last 30-second  
15 thoughts?

16 MR. PEÑAGARICANO: Thank you. Just as  
17 closing remarks and again thanking the Court for its  
18 time into this process. We would ask permission to  
19 Captain Figueroa to address the Court in closing  
20 remarks.

21 THE COURT: Okay, so Captain Figueroa, please  
22 go ahead.

23 CAPTAIN FIGUEROA-ORTOLAZA: Good afternoon  
24 once again. This afternoon we have heard from the  
25 Department of Justice, from Attorney Saucedo and

1 Attorney Castillo, the Special Master Alex Del Carmen  
2 talking about the problem. We know the problem. We  
3 identified the problem. And the Puerto Rico Police  
4 will talk about the solutions now.

5 On August 31st we submitted to the parties  
6 the forms to verify arrests either by use of force  
7 that was signed on August 31st. Those forms contain  
8 the demographic category elements that the agreement  
9 contains that will allow us to review the IT systems  
10 to analyze those new elements. And as last key  
11 element, in order for the data to be reliable it's to  
12 have people who can verify the quality of that data  
13 detail.

14 And an example of this is Form 100-113  
15 special investigation on the use of force. According  
16 to the agreement, all reports of use of force reach  
17 that office. The field investigators have a form  
18 which is known as form 113.3 and through those reports  
19 they have to validate that that use of force report  
20 does not contain conclusive or repetitive language and  
21 that all fields of the report be completely accurate.  
22 And that can allow us to have reliable data quality in  
23 order for the Monitor to be able to evaluate the  
24 resources.

25 This, together with the secretary of public

1 security, together with the commissioner of the Puerto  
2 Rico Police, signed an agreement to continue the  
3 project with Ben Horwitz which will allow us to  
4 improve the quality of the data. As I said in the  
5 beginning, we know the problem already. The police's  
6 responsibility is what are the solutions to solve the  
7 problem. And those are parts of the solutions that  
8 the police is doing and we are showing to the Court.  
9 Thank you very much.

10 THE COURT: Thank you.

11 So in finalizing everything again I thank  
12 everybody for their input today. This along with the  
13 past status conference and public hearing have been  
14 entirely productive. I think everybody sees and  
15 understands what needs to be done and what the  
16 Commonwealth says. And I do applaud the Commonwealth  
17 for recognizing that it realizes what the issue is and  
18 now it's time to resolve it. So this is a very  
19 positive step moving forward.

20 And I do want to recognize since this  
21 administration came in its always said, We're not here  
22 to litigate, we want to resolve the problems, and  
23 you're doing your best to fix the problems. And I  
24 think the ball right now is in your park and you need  
25 to put a lot of effort into moving it forward, but it

1 is something that again from where we are today  
2 there's only moving forward. So in that respect I am  
3 very satisfied where everything stands. Again, a lot  
4 of work to be done, nobody's arguing against that, but  
5 things continue to move along.

6 So I want to thank everybody here. It's been  
7 a long day, those that are traveling back tomorrow,  
8 safe travel. I guess Mr. Saucedo will be having lunch  
9 in a few minutes. I guess the ones in Texas or Ohio  
10 or will be having their siesta in a bit. And  
11 everybody else drive home safely and then I'll hear  
12 from you, I guess, October 1st in that joint motion  
13 that the parties will submit.

14 I do want to -- also I appreciate the  
15 collaboration there has been this year. In these  
16 cases nobody's going to see eye to eye 100 percent.  
17 There's going to be discussions, honest differences,  
18 but I have to say the filings it's almost been a  
19 year -- nine months, ten months, and the number of  
20 filings in this case has been minimal. If we remove  
21 the number of filings that are the monthly invoices  
22 basically there will be no filings. So that shows  
23 that everybody is in a very positive and collaborative  
24 track and really everybody wants to see an end to this  
25 sooner or later.



1           Okay, well thank you very much. Court is  
2 adjourned. Once everybody is out I'm going to stay  
3 here with the monitoring team. So I'll be in the  
4 Judge's room but I'll come out to meet with the  
5 monitors. So Dr. Del Carmen if you can stay on zoom,  
6 we'll sign off the others and then Mr. Del Carmen can  
7 participate in the post-hearing discussion I'll have  
8 with the monitoring team. Okay, you're excused. I'll  
9 be back in about five minutes.

10           THE BAILIFF: All rise.

11           (The Court exits the room.)

12           (Status Conference at 4:50 p.m.)

13           ---

1 UNITED STATES DISTRICT COURT )  
2 OF ) ss.  
3 PUERTO RICO )  
4  
5  
6

7 CERTIFICATE  
8  
9

10 I, EVILYS E. CARRIÓN-ESQUILÍN, hereby certify  
11 that the proceedings and evidence are contained fully  
12 and accurately, to the best of my ability, in the  
13 notes recorded stenographically by me, at the status  
14 conference in the above matter; and that the foregoing  
15 is a true and accurate transcript of the same.  
16

17 /s/ Evilys E. Carrión-Esquilín

18 EVILYS E. CARRIÓN-ESQUILÍN, RPR  
19 Official Court Reporter  
20 United States District Court  
21 Federal Building, Room 200  
22 San Juan, Puerto Rico 00918  
23 787-772-3377  
24  
25